

## IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

## DIVISION OF ST. CROIX

PETRO INDUSTRIAL SOLUTIONS, LLC, )

Plaintiff, )

vs. )

Case No. 1:21-CV-00312

ISLAND PROJECT AND OPERATING  
SERVICES, LLC; VITOL US HOLDING  
II CO.; VITOL VIRGIN ISLANDS  
CORP.; ANDREW CANNING; and OPTIS  
EUROPE, LTD., )

Defendants. )

## THE ORAL DEPOSITION OF CHETRAM PERSUAD

was taken on the 22nd day of May, 2023, at the Law Offices  
of Beckstedt & Kuczynski, LLP, 2162 Church Street,  
Christiansted, St. Croix, U.S. Virgin Islands, and via Zoom  
teleconference, between the hours of 9:38 a.m. and  
3:37 p.m., pursuant to Notice and Federal Rules of Civil  
Procedure.

Reported by:

Susan C. Nissman RPR-RMR  
Registered Merit Reporter  
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By: Lee J. Rohn

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By: Simone R.D. Francis (Via Zoom)

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By: Carl A. Beckstedt, III

3

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## For the Defendant Andrew Canning:

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By: Andrew C. Simpson (Via Zoom)

Also Present: Adrian Melendez, Jr.

4

## INDEX

## E-X-A-M-I-N-A-T-I-O-N

Description	Counsel	Page
Direct	by Mr. Beckstedt	5
Cross	by Ms. Francis	124
Cross	by Mr. Simpson	156
Cross	by Ms. Rohn	168
Redirect	by Mr. Beckstedt	173
Recross	by Mr. Simpson	177
Recross	by Ms. Francis	178

## E-X-H-I-B-I-T-S

Exhibit	Description	Page
17 -	Versa Report dated April 3, 2021	114

CHETRAM PERSUAD -- DIRECT

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CHETRAM PERSUAD,

called as a witness, having been first duly sworn,  
testified on his oath as follows:

**DIRECT EXAMINATION****BY MR. BECKSTEDT:**

**Q.** Mr. Persuad, my name is Carl Beckstedt, and I represent Vitol Virgin Islands Corporation, and Vitol U.S. Holding II Company, which I'll refer to as Vitol in this deposition, okay?

**A.** Okay.

**Q.** All right. Could you please state your name for the record?

**A.** Chetram Persuad.

**Q.** All right. Do you have any nicknames or false names that you go by?

**A.** A nickname would be Chad.

**Q.** Now, Mr. Persuad, have you ever had your deposition taken before?

**A.** Never.

**Q.** Okay. You're here today in my office, and it's an informal setting, but it is part of a court proceeding that's pending in the District Court of the Virgin Islands in St. Croix, so it's as if you're before the judge on the witness stand, subject to the penalty of perjury to tell the truth, and I'm going to ask you some questions regarding the

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case that's before the Court, okay?

**A.** Okay.

**Q.** The court reporter is taking down everything that's said as part of this proceeding, so it's important that we probably talk slower than I am right now, that we speak up loudly, and that we don't talk on top of each other, okay?

**A.** Okay.

**Q.** The last -- or two last instructions: One is, if you don't understand my question, please tell me, and I'll try to clarify it or rephrase it so that you do understand.

Fair enough?

**A.** Yes.

**Q.** And also, is there any reason today, because of either an event in your life or illness, that you cannot devote your full attention, or are you prepared to proceed today with my questioning?

**A.** Yes.

**Q.** You're prepared to proceed?

**A.** Yes.

**Q.** Okay. So, first of all, where do you currently reside?

**A.** On St. Croix, 39 Little Fountain.

**Q.** Okay. And how long have you lived at 39 Little Fountain?

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**A.** Since '97.

**Q.** Okay. And where are you originally from, if I may?

**A.** I was born in South America, Guyana, and I was raised in New York.

**Q.** All right. And when did you first come to reside in the Virgin Islands?

**A.** I think it's 2000. Right after Hurricane Hugo.

**Q.** Okay. Right after Hugo?

**A.** Yeah.

**Q.** So Hugo was 1989.

**A.** '89. So that was 2000.

**Q.** That's missing ten years.

**A.** Oh, I'm sorry.

**Q.** 1990?

**A.** 1990. Sorry. Yes.

**Q.** Okay. All right. And did work bring you down post hurricane?

**A.** No. Came to visit a friend.

**Q.** Okay. And have you resided in St. Croix ever since you came after Hurricane Hugo?

**A.** Yes.

**Q.** All right. And where are you currently employed?

**A.** At Petro Industrial.

**Q.** And that's a company, if I understand, that's

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owned by Mr. Adrian Melendez, Jr., who's present here today at the deposition, correct?

**A.** That is correct.

**Q.** All right. And how do you know Adrian Melendez?

**A.** We worked at the refinery together.

**Q.** And when you say, "the refinery," which iteration of the refinery do you mean?

**A.** Limetree Bay.

**Q.** Okay. And did you work for a different company at the Limetree Bay refinery?

**A.** No. We worked for the same company.

**Q.** And what company was that?

**A.** NIS.

**Q.** All right. And that was Jeff Nations' company?

**A.** That's correct.

**Q.** All right. And how long did you work at NIS?

**A.** Roughly about three years.

**Q.** And what positions were you and Mr. Melendez in at NIS while you were working there?

**A.** I was superintendent of nights; and Mr. Melendez, superintendent day.

**Q.** He was in the same position as you at the daytime?

**A.** Yes.

**Q.** Got it.

All right. And -- and what questions did you

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1 work at NIS with Mr. Melendez?

2 A. I think it was '15, '16, '17.

3 Q. All right. And after your -- when did you leave  
4 NIS?

5 A. Right after Imma and Maria.

6 Q. And where did you go after Imma and Maria?

7 A. I didn't go anyplace. Worked at my house, 'cause  
8 it was badly damaged. And after that, started with  
9 Mr. Melendez.

10 Q. Okay. So, in other words, you started with  
11 Mr. Melendez' company, Petro Industrial?

12 A. That's correct.

13 Q. All right. And when did you start with Petro  
14 Industrial?

15 A. I'd say the hurricane was in '18, I think it was.

16 Q. I believe it was September 2017.

17 A. Well, it was going to be right after. I would say  
18 November or December.

19 Q. Okay. So shortly after the hurricane?

20 A. Yes.

21 Q. All right. And you were employed directly by  
22 Petro at that time?

23 A. That's correct.

24 Q. Is it fair to refer to it as Petro?

25 A. Petro Industrial, yes.

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1 Q. Petro Industrial?

2 A. Yeah.

3 Q. So if I accidentally just call it Petro, I will mean  
4 Petro Industrial, okay?

5 A. I understand.

6 Q. Thank you.

7 Okay. And what was the job that -- what was  
8 the position you were hired for at Petro Industrial in 2017?

9 A. I was basically the field superintendent/manager.

10 Q. And what are the duties and responsibilities in  
11 that position?

12 A. Basically make sure the work is getting done on  
13 time. Make sure costs is to a minimum. Client is happy  
14 with the production.

15 Q. Okay. And who did you -- all right.

16 Are you still with Petro today?

17 A. Yes.

18 Q. Okay. And what position do you hold?

19 A. Same position.

20 Q. All right. Can you just give me an outline of the  
21 management structure at Petro Industrial?

22 Let me back up.

23 Has it changed at all since it started in  
24 2017?

25 A. No.

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11

12

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1 Q. Okay. So can you give me an outline of the  
2 management structure at Petro?

3 A. Adrian, myself, our office manager. That's it.  
4 And the employees.

5 Q. All right. So you report directly to Adrian?

6 A. That's correct.

7 Q. Do you know what title he holds at the office?

8 A. Not sure, but I know he's the owner.

9 Q. Fair enough.

10 All right. And you said you have an, I'm  
11 sorry, office manager, was it, who was under you?

12 A. Not under me. Under Adrian. Santhia Rodriguez.

13 Q. All right. And what's her position again? I  
14 apologize.

15 A. Office personnel. Office manager.

16 Q. Got it.

17 So you both directly report up to Adrian?

18 A. Yes.

19 Q. And then you have, I guess for lack of a better --  
20 the workers, then, that actually do the hands-on skilled  
21 labor?

22 A. That is correct.

23 Q. And I take it those fluctuate, depending upon the  
24 jobs you have at the time?

25 A. That is correct.

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1 Q. All right. And you're responsible for that  
2 workforce?

3 A. Yes.

4 Q. Okay. And the office manager handles the office  
5 paperwork related to that workforce?

6 A. That's correct.

7 Q. All right. Does Petro have a quality control  
8 manager?

9 A. Myself or Adrian.

10 Q. All right. So do you guys flip flop in that role?

11 A. If I'm on St. Croix, I'll do it. If I'm on  
12 St. Thomas and Adrian is not here, I will do it.

13 Q. Got it.

14 All right. So that role is filled based upon  
15 who's available, as opposed to, say, assignments for  
16 projects?

17 A. That is correct.

18 Q. Okay. Now, are you aware of the lawsuit that  
19 Petro has filed against various entities, including Vito?

20 A. Yes. I'm aware of it.

21 Q. All right. And what do you understand that  
22 lawsuit to be about?

23 A. Pretty much my understanding is breach of  
24 contract. And as far as how Petro was treated, it was  
25 unfairly.

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1 Q. Okay. Now, one of the defendants in this lawsuit  
2 is Andrew Canning.

3 Do you know him?

4 A. Yes.

5 Q. All right. And -- sorry. Just check something.

6 Another defendant in this lawsuit is Optis  
7 Europe, Limited.

8 Do you know that company?

9 A. Never heard of that company.

10 Q. And another defendant in this lawsuit is Island  
11 Project and Operating Services, LLC.

12 Familiar with that?

13 A. Yes. IPoS.

14 Q. Okay. So if we refer to it today as IPoS, you  
15 would understand that to mean the company I just named,  
16 right?

17 A. That is correct.

18 Q. Okay. Now, do you know any of the -- well, first.  
19 Let me strike that.

20 Did there come a time where you met Charlotte  
21 Horowitz?

22 A. Yes.

23 Q. All right. And you know who Charlotte Horowitz  
24 is?

25 A. I don't know her position. I know who she is.

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1 She's one of the representatives for Vito1.

2 Q. Okay. And you met with her in Texas, right?

3 A. That is correct.

4 Q. All right. And do you recall when that meeting  
5 was?

6 A. No, I don't.

7 Q. Okay. Do you recall who was present at that  
8 meeting?

9 A. Yes.

10 Q. Who?

11 A. Charlotte, Tim, Sebastian, Adrian, myself.

12 Q. Okay. And who are -- are there any other  
13 individuals at Vito1 that you have interacted with over the  
14 years working with Petro?

15 A. David Smith, Merlin Figueira. I'm not a  
16 hundred-percent sure of his last name. They had several  
17 supervisors or managers that came and went. I can't  
18 remember their names.

19 Q. Okay. Now, it's my understanding that David Smith  
20 and Merlin both work for IPoS.

21 Is that what you understand, or no?

22 A. Yes.

23 Q. Okay. And during the time that you were working  
24 with Petro for IPoS, you understood that David Smith and  
25 Merlin were employees of IPoS?

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15

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1 A. That is correct.

2 Q. And do you know what positions they held?

3 A. At first, David was the general manager for both  
4 islands; and after he left and went to his other position,  
5 he, Merlin, came in for the spot.

6 Q. Okay. And what was David Smith's other position,  
7 to your knowledge?

8 A. I think he went to work at Cape Canaveral, if not  
9 correct.

10 Q. Okay. And then Merlin, to your knowledge, became  
11 the general manager for both St. Thomas and St. Croix?

12 A. That's correct.

13 Q. Okay. Now, do you have any knowledge of any type  
14 of racist comment that Charlotte Horowitz has ever made with  
15 respect to Petro, or any Petro employees?

16 A. Not to my knowledge.

17 Q. Do you have any knowledge of any discriminatory  
18 conduct by Ms. Horowitz, Charlotte Horowitz, with respect to  
19 Petro, or any Petro employees?

20 A. No.

21 Q. All right. I have the same question for the other  
22 Vito1 people that you interacted with.

23 So are you familiar, or have any personal  
24 knowledge, I should say, with respect to any racist comments  
25 by Sebastian Moretti?

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16

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1 A. Best answer to your question is, we never  
2 interacted. We met one time with these people that you're  
3 asking, Sebastian, Charlotte. We worked with Tim on several  
4 occasion. But as far as communicating with them, they  
5 probably would have been in a meeting once or twice via  
6 satellite or something like that, but we never took  
7 instructions directly from them.

8 Q. Okay. That's fair enough. I understand.

9 Would it be fair to say -- and I just need to  
10 make sure we're clear on the record -- would it be fair to  
11 say that you have no personal knowledge of any racist  
12 comments or discriminatory conduct towards Petro, or any  
13 Petro employees, by Sebastian Moretti?

14 A. No knowledge of that.

15 Q. Okay. And would it be fair to say you do not have  
16 any knowledge of any racist comments or discriminatory  
17 conduct against Petro, or any of Petro's employees by Tim  
18 Kologinczak?

19 A. That's correct.

20 Q. And would it be fair to say that you do not -- do  
21 you know who Eduardo Garcia is?

22 A. I met him a few times. He was here before we  
23 started working -- or Sebastian and these other guys, he was  
24 the one that I understand started the whole Vito1 process  
25 down here with this propane facility.

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- 1 Q. Okay. All right. So did you have occasion to  
2 interact and observe Mr. Garcia in your job?  
3 A. No. I met him on three occasions, probably.  
4 Q. Okay. So you did have occasion to meet him, but  
5 you didn't interact with him --  
6 A. No.  
7 Q. -- regularly?  
8 A. No.  
9 Q. Is that correct?  
10 A. That is correct.  
11 Q. Okay. Do you have any knowledge of Mr. Eduardo  
12 Garcia making any racist comments, or engaging in any  
13 discriminatory conduct against Petro, or any of Petro's  
14 employees?  
15 A. No.  
16 Q. Okay. What about with respect to any of the IPOS  
17 personnel? Do you have any personal knowledge of any racist  
18 comments or discriminatory conduct that Mr. David Smith  
19 engaged in with respect to any Petro employees?  
20 A. No.  
21 Q. And what about Merlin Figueira? Do you have any  
22 personal knowledge of Mr. Figueira engaging in any racist  
23 comments or discriminatory conduct against the Petro  
24 employees?  
25 A. No.

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- 1 we'll go over the task three or four times,  
2 and then we'll go back to the same initial one, and say this  
3 is better for him.  
4 As far as that, he was saying, You island  
5 boys don't know what you're doing. You island people cannot  
6 get it right.  
7 At his request, he would have said, Hey, this  
8 is not correct. Can you get somebody else to do this? We  
9 have been doing this job for several times for Andrew. And  
10 like I said, he always come back, saying that, You island  
11 people, or you locals cannot get it right.  
12 Q. Okay. All right. Any other racist comments that  
13 you have personal knowledge of that were made by Mr. Canning  
14 to Petro employees?  
15 A. Yes.  
16 Q. What other knowledge?  
17 A. Our personnel out of Puerto Rico, he said, These  
18 guys are worthless. They don't know what they're doing.  
19 They can't even communicate with them. We need to get  
20 better personnel than these Hispanics.  
21 Q. Okay. Any -- anything else in terms of  
22 Mr. Canning making any racist comments?  
23 A. Mr. Canning would make remarks, our payroll, our  
24 timesheets, even our quotes. Again, he would go back and  
25 say, You guys can't even get the numbers right as locals.

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- 1 Q. All right. For any of those people for IPOS or  
2 for Vito1, do you have any personal knowledge of any sort  
3 of, I guess, to use your words, unfair -- I'm sorry -- yeah,  
4 unfair treatment of Petro or Petro employees?  
5 A. No.  
6 Q. Okay. What about with respect to Mr. Canning? Do  
7 you have any personal knowledge of Mr. Canning ever making  
8 any kind of racist comments towards any Petro employees?  
9 A. Yes.  
10 Q. Okay. And what knowledge do you have with respect  
11 to Mr. Canning making racist comments to Petro employees?  
12 A. To set the record straight, we took most of our  
13 orders from Andrew Canning. He was their representative on  
14 site. Mr. Canning would have -- would lay -- we would lay  
15 out a job that Canning gave us, and he would say, This is  
16 incorrect. We would --  
17 MR. SIMPSON: Can you please --  
18 Q. (Mr. Beckstedt) They need you to?  
19 A. Speak up.  
20 Q. Yeah.  
21 A. I said, Andrew Canning pretty much run the  
22 maintenance work for IPOS. And pretty much, he would give  
23 us a potential task to do. And right off the bat, we'll  
24 come up with the numbers, timewise, and he said, This is  
25 incorrect.

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- 1 You can't even calculate hours on a timesheet as locals.  
2 And he would go on to say, As far as myself and Adrian  
3 Melendez, we're worthless as running the company.  
4 Q. And are those Mr. Canning's words?  
5 A. Yes.  
6 Q. Okay.  
7 A. I can even go further.  
8 Andrew Canning, on several occasion, accused  
9 us of forgery. Trying to rob the company.  
10 Q. Meaning IPOS?  
11 A. IPOS.  
12 And we have proved to him, time and time  
13 again, all he has to do is ask if he doesn't understand  
14 something.  
15 Q. Okay. Anything else?  
16 A. As far as that's it for right now.  
17 Q. All right. My -- of course my questions were with  
18 respect to racist comments.  
19 I have the same questions with respect to  
20 discriminatory conduct.  
21 Do you have any personal knowledge of  
22 Mr. Canning engaging any type -- in any type of  
23 discriminatory conduct different, or other than, what you've  
24 already told me about with respect to his racist comments?  
25 A. Yes. He had a gentleman by the name of David

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1 Nagle on site.

2 Q. Uh-huh.

3 A. And I don't know what was their affiliation  
4 between the two of them, but eventually they became -- he  
5 worked at IPOS, also. I don't know if it's a contract or  
6 what was the affiliation with Andrew Canning. How he  
7 treated David Nagle versus our employees and ourself was  
8 totally different.

9 Q. And can you explain for me the differences that  
10 you observed in Mr. Canning's treatment of David Nagle?

11 A. I'll give you one example.

12 The RIO panels we were working on, David  
13 Nagle was asked to design it and assist us in putting them  
14 together.

15 On several times in the field, David Nagle  
16 would make several mistakes in telling the welders exactly  
17 where to weld, what to do. Andrew Canning would come out  
18 and say, If David Nagle made a mistake, you guys should  
19 catch it. Your local guys cannot read a tape. You local  
20 guys don't know what you're doing. He would not have said  
21 anything to David Nagle, although I pointed out that David  
22 Nagle was the one who's telling the welders exactly what to  
23 do, where to weld.

24 Q. When you say, they can't read a tape, can you  
25 explain that to me?

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1 A. Regular measuring tape.

2 Q. Ah, okay.

3 All right. All right. Any other examples of  
4 your -- so -- so you said that you -- well, first of all,  
5 any other examples of you observing Mr. Canning engaging in  
6 discriminatory conduct?

7 A. By all means. Again, with the same gentleman,  
8 David Nagle.

9 Q. Uh-huh.

10 A. He would go out there and stop our job on the RIO  
11 panels again, and we lost hours, time. Then Canning and  
12 come back and ask us, You guys are worthless. Why aren't  
13 you picking up the pace? And this job was stopped by David  
14 Nagle.

15 Q. All right. Any other examples?

16 A. On behalf of myself, I've spoken to Andrew Canning  
17 on several occasion in regards to a job. He would agree up  
18 front, yes, this is what I want you to do. And after that  
19 it's finished, three months later on the timesheet, he would  
20 say, why did you -- why were you on that timesheet? And he  
21 agreed, he's the one who asked me to go on different places,  
22 include St. Croix or St. Thomas. Look at the job. Came up  
23 with the numbers for the job, and would he say, I did not  
24 ask you to go there.

25 Q. So just so I'm clear, what you're saying is, that

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23

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1 you and Mr. Canning would come to an agreement at the  
2 beginning or in the earlier stage of project that you were  
3 going to do certain things, and then later, when you  
4 submitted time for those certain tasks, he basically  
5 disagreed that you had agreed -- that the two of you had  
6 agreed that you would do that work?

7 A. That is correct.

8 And to make this perfectly clear, it would be  
9 a three month's process after he will come back and say  
10 this. Not a week. Not a month. Three months.

11 Q. And with respect to this last example, is this for  
12 one particular job in particular, or many jobs?

13 A. No, with multi jobs. Multiple jobs that we did on  
14 the site.

15 Q. Okay. Did you have any forms -- anything in  
16 writing as to your agreement at the beginning of these  
17 projects as to what your role would be that Mr. Canning  
18 later said he had not agreed that you would do it?

19 A. We had no form of writing. He would communicate  
20 verbally. Send an e-mail out to myself or Adrian was very  
21 limited from Andrew.

22 Q. Got it.

23 So as you sit here today, you're not aware  
24 with respect to any of these examples that you gave me on  
25 this last point, where you can show, like a written e-mail

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24

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1 communication that says, Mr. Canning agreed that I would do  
2 this, and then later he took a different position?

3 A. No. This would have been discussed by at least  
4 four to six people on a weekly meeting, whatever project is  
5 coming up. And Canning would say, This would be the -- the  
6 procedure we was going to follow. I was going to go across  
7 St. Thomas, St. Croix. Scope the job out. Give him all  
8 what he needs, personnel hours, material, and we go from  
9 there.

10 Q. Okay. And these weekly meetings where this was  
11 discussed, were there regular attendees at these weekly  
12 meetings, like week in and week out?

13 A. David Smith, the IPOS employee between St. Thomas  
14 St. Croix.

15 Q. Okay. I'm sorry. Let's back up.

16 For IPOS at these weekly meetings, David  
17 Smith would be in attendance?

18 A. Yeah. Via conference. And you'll have the  
19 employees from St. Thomas and St. Croix.

20 Q. Okay. And this -- these meetings were happening  
21 at that time via videoconference?

22 A. That is correct.

23 Q. Got it.

24 And who, from Petro, was in attendance?

25 A. Either myself, Adrian, or -- or employees at the

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1 site at the time.

2 Q. Okay. And were any personnel from Vitol in  
3 attendance at those meetings?

4 A. No.

5 Q. Okay. I'm going to go back and spend some time on  
6 some of these examples, but just from a high-altitude  
7 perspective, are there any other examples that you have of  
8 discriminatory conduct by Andrew Canning towards Petro or  
9 Petro employees?

10 A. Yes.

11 Q. What are some more examples?

12 A. Job-wise, Andrew Canning would say, This is not to  
13 code, to our employees. Andrew Canning would not have known  
14 what code. Is it a boiler code or pipe code whatever code,  
15 but he would say, That's not to code. We have to go to  
16 Merlin. We have to look up what code he's talking about and  
17 prove to him that it's wrong.

18 Q. All right. Is this something that was happening  
19 continuous --

20 A. Continuous.

21 Q. -- or with respect to one particular job?

22 A. Continuous.

23 Q. Okay. Was there ever any time that he was correct  
24 that something was not up to code?

25 A. Not to my knowledge.

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27

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1 you're saying.

2 You're talking about an initial meeting  
3 before a project starts, or are you just talking about the  
4 weekly meetings?

5 A. There would come a time where it was too much from  
6 Andrew Canning, and we'd request a meeting from David Smith  
7 and the general manager to discuss unfair practices.

8 Q. I get it.

9 A. Before we say anything in the meeting, Andrew  
10 Canning would say, These guys are the greatest guy here. We  
11 do everything correctly. And we had nothing to bring  
12 forward at that time.

13 Q. Okay. So let me just, first of all, understand  
14 the stage here, if I may.

15 You're going about your work and becoming  
16 frustrated with Canning's behavior, correct?

17 A. That's correct.

18 Q. And you ask for a meeting? You ask for a meeting  
19 with IPoS?

20 A. That is correct.

21 Q. To address Canning's behavior that you're  
22 frustrated with?

23 A. Yes.

24 Q. And the meeting is held, and the people that are  
25 present are yourself and --

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1 Q. Okay. All right. Any other examples?

2 A. Not at this time. I can't remember right now.

3 Q. Okay. With respect to the discriminatory conduct  
4 and racist comments that you've been testifying to with  
5 respect to Mr. Canning, did anyone, at -- to your personal  
6 knowledge -- well, did you ever tell anyone at Vitol that  
7 Canning was engaging in this conduct?

8 A. No.

9 Q. All right.

10 MS. ROHN: Wait. Wait. He was about to say  
11 something.

12 Q. (Mr. Beckstedt) Yeah.

13 A. We never reported this to anybody at Vitol. We  
14 would have these meetings. David Smith, the general  
15 manager, and Andrew Canning would get in the meeting and  
16 say, right off the bat, These are the best employees we  
17 have. This happened on several occasions with several  
18 general managers that came on site.

19 As we get into the meeting, These guy's price  
20 are right. The employees are great. We're the best people  
21 they have at the time doing their maintenance.

22 As we walk out of there the next day, we go  
23 back to being the same thing. And this happened on several  
24 occasions.

25 Q. Okay. I want to make sure I understand what

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28

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1 A. Adrian.

2 Q. -- and whomever -- and Adrian. David Smith or  
3 Merlin?

4 A. And Merlin.

5 Q. And Merlin?

6 A. Yes.

7 Q. And Andrew Canning?

8 A. That is correct.

9 Q. Okay. And no one from Vitol, right?

10 A. No.

11 Q. That's correct?

12 A. That is correct.

13 Q. Okay. And at that meeting, the very first part of  
14 the meeting would be Andrew Canning basically singing  
15 Petro's praises?

16 A. That is correct.

17 Q. And then you said, so we would have nothing to,  
18 what?

19 A. So I said, as he starts singing the praises, that  
20 we're the best people, what are we going to complain? We  
21 have a great working relationship with these guys. They're  
22 the best thing we ever had in this facility so far.

23 So now, that shut us down as far as  
24 complaining to. What are we going to complain about?

25 Q. Did you ever request a meeting with IPoS, where

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1 you specifically requested that Mr. Canning not be present?

2 A. No.

3 Q. Did you ever, after Mr. Canning gave one of these  
4 introductory praises at the meeting, did you ever say, Time  
5 out. That's not what's happening on the field. He's not  
6 treating us as if we're the best people, or the way he's  
7 singing our praises? Did you ever call him out, basically?

8 A. No, I never did, because of fear that as that  
9 would happen, we continue working there, and get treated in  
10 a different perspective.

11 Q. And you're telling me today that this happened  
12 more than one time, where you asked for a meeting because of  
13 Mr. Canning's conduct?

14 A. Yes.

15 Q. And so as this continued to become, I guess, in  
16 your words, a routine, right?

17 A. That's correct.

18 Q. I mean, those aren't your words, but am I  
19 characterizing your testimony correctly?

20 A. Yes.

21 Q. Okay. So as this became a routine, you still  
22 didn't ever call him out at any of these meetings?

23 A. Never.

24 Q. Okay. And -- all right.

25 Is there anything else that Petro did to tell

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1 to do something about it.

2 Q. Okay.

3 MR. STIMPSON: I'm sorry. You need to speak  
4 up.

5 A. The reason I discuss it with Merlin or talked to  
6 Merlin about it, I wanted some -- someone from IPOS to step  
7 up, but it never happened.

8 Q. (Mr. Beckstedt) Okay. So let me ask my question a  
9 little differently.

10 Did Merlin Figueira ever relate to you in any  
11 of these conversations what he had or had not done about the  
12 situation?

13 A. No.

14 Q. All right. So you have no knowledge as to what  
15 Mr. Figueira may or may not have done in light of the  
16 continued, I believe, as you said, conduct of Mr. Canning  
17 pressuring and treating you unfairly?

18 A. I have no knowledge of that.

19 Q. Okay. Did you ever bring this up directly to  
20 Mr. Canning?

21 A. No.

22 Q. Do you have any recollection as to how many times  
23 you had these meetings, where you asked specifically for a  
24 meeting with respect to Mr. Canning's conduct?

25 A. Three times.

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1 anyone at IPOS about Canning's behavior that you've been  
2 discussing?

3 A. It was discussed off the record, general manager,  
4 Merlin Figueira.

5 Q. Okay.

6 A. And he agreed that Andrew was purposely pressuring  
7 us and treating us unfairly.

8 Q. And what do you mean by "off the record"?

9 A. So after the meeting was over, we go out, the next  
10 day, it would happen. Go about our business on the job  
11 site, and we would get back right into the same routine with  
12 Andrew, you know, as far as the work, you guys can't do  
13 something simple. Picking on our guys. Go to Merlin.  
14 Merlin, this has to stop. We had this meeting yesterday.  
15 This gentleman is back to doing the same dirty thing that he  
16 was doing all along, picking on our employees. Harassing  
17 our employees. Not allowing them to do what they want to  
18 do. Doing their job.

19 Merlin have said he seen it on several  
20 occasion. And we just continue talking about it back and  
21 forth, but I don't think it went anywhere beyond Merlin  
22 discussing it.

23 Q. All right. Did you ever ask Merlin, you know, if  
24 IPOS or Merlin was going to do anything about it?

25 A. Well, the reason I complained, I wanted somebody

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1 Q. Okay. Do you remember the dates of those  
2 meetings?

3 A. Sorry, no.

4 Q. Do you remember specifically what the project --  
5 projects were that were going on, related to these three  
6 meetings?

7 A. Not at the time, no.

8 Q. Okay. Do you know -- do you know the approximate  
9 time frame of these three meetings?

10 A. About three months apart.

11 Q. So each one was roughly three months apart?

12 A. Roughly.

13 Q. Do you have any recollection of which year or  
14 years these meetings took place?

15 A. I would say 2019.

16 Q. You can't look to Mr. Melendez for answers.

17 A. No, no. I just -- I can't recollect. I can't  
18 recollect. Sorry.

19 Q. Okay. All right. Do you, by -- do you know the  
20 date that Petro entered into their maintenance agreement  
21 with IPOS?

22 A. Around 2017-18.

23 Q. Okay. Did you ever work for Vivot Construction?

24 A. That's correct.

25 Q. All right. Did Mr. Melendez work with you at

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1 Vivot Construction?

2 A. Yes.

3 Q. All right. When was this?

4 A. Prior to Petro starting.

5 Q. Okay. So you worked at NIS with Mr. Melendez,  
6 that's the first time the two of you worked together, right?

7 A. Yes.

8 Q. And that's when you met Mr. Melendez?

9 A. That is correct.

10 Q. Okay. And Mr. Melendez was working for NIS?

11 A. Yes.

12 Q. Okay. And after Irma and Maria, you stopped  
13 working for NIS and attended to your property?

14 A. That's right.

15 Q. And then I believe you told me that you and  
16 Mr. Melendez, you then went to work for Petro, but actually  
17 you worked for Vivot in between?18 A. We worked -- yes, right after Irma and Maria, we  
19 worked for Vivot.

20 Q. Okay. And what was your position at Vivot?

21 A. Supervisor.

22 Q. Okay. And what was Mr. Melendez's position, to  
23 your knowledge, at Vivot?

24 A. I think he was a manager.

25 Q. Did you report to Mr. Melendez?

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1 A. Yes.

2 Q. Okay. And what time frame did you work at Vivot?

3 A. I would say about three to six months.

4 Q. And then you went to Petro?

5 A. Yes.

6 Q. So since you've lived on St. Croix -- I'm  
7 concerned from the time you were with NIS, when you first  
8 met Mr. Melendez forward. Not before, okay?

9 A. Um-hum.

10 Q. So on St. Croix, since you worked at NIS, the only  
11 other companies you've ever worked for were Vivot, and then  
12 Petro?

13 A. Yes.

14 Q. No other companies?

15 A. No other companies.

16 Q. And did you do any work independently, like  
17 yourself? Self-employed during that time?

18 A. No.

19 Q. Okay. Before Petro got the contract for work at  
20 the propane facilities at WAPA on St. Thomas and St. Croix,  
21 had you done any work on those facilities through Vivot?

22 A. Yes.

23 Q. Okay. And was Andrew Canning involved in any of  
24 that work?

25 A. Yes.

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35

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1 Q. Was any of the conduct that you have described  
2 today with respect to Mr. Canning being either racist or  
3 discriminatory or unfairly treating employees, was any of  
4 that conduct, did any of that occur when Vivot was doing the  
5 work?

6 A. Yes.

7 Q. So the examples you gave me earlier, did that  
8 include both -- the examples of Mr. Canning's conduct that  
9 you've testified to earlier today, did that involve conduct  
10 that was both during the Vivot period of time and the Petro  
11 period of time?

12 A. Yes.

13 Q. Got it.

14 The three meetings that you're talking about,  
15 where you went to IPOS to discuss Mr. Canning's conduct, do  
16 you have any recollection -- you said you don't recall the  
17 dates of those meetings, correct?

18 A. That's correct.

19 Q. Do you have any recollection, or can you say with  
20 any certainty, whether those meetings occurred when Vivot  
21 was doing the work, versus when Petro was doing the work?22 A. We never had any meeting with -- during the Vivot  
23 time with them to report this.

24 Q. Okay.

25 A. We never asked for any.

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36

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1 Q. Okay. Got it.

2 So when Mr. Canning was engaging in some of  
3 this conduct that you've described while you were working  
4 for Vivot, nobody ever called a meeting with IPOS or raised  
5 concerns about it, correct?

6 MS. ROHN: Objection to form. Compound.

7 Q. (Mr. Beckstedt) All right. Am I -- when you were  
8 working for Vivot, and experiencing this conduct that you've  
9 testified to with respect to Mr. Canning, did -- do you have  
10 any knowledge of Mr. Canning's conduct being raised to IPOS?

11 A. No.

12 Q. Okay. Did you raise it to Vivot?

13 A. No.

14 Q. Is there -- are you -- are you aware of anything  
15 in writing, either via e-mail, note, or otherwise, that  
16 documents the request for these three meetings that you've  
17 talked about with IPOS to discuss Mr. Canning's conduct?

18 A. No.

19 Q. Do you know if, during those meetings, anybody was  
20 taking any kind of minutes or notes or agendas?

21 A. Not to my knowledge.

22 Q. Okay. With respect to actual derogatory terms,  
23 you know, racist terms or discriminatory terms, I understand  
24 that you used the word "islander," right?

25 A. Yes.

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- 1 Q. All right. Did I also hear you use the word  
2 "local"?
- 3 A. That is correct.
- 4 Q. All right. Any other words that Mr. Canning used  
5 specifically that you perceived or understood to be racist  
6 or discriminatory?
- 7 A. Not that I can recall, but he may or may not.
- 8 Q. Just what you have personal knowledge of today?
- 9 A. Yes.
- 10 Q. So those are the two, right?
- 11 A. Right.
- 12 Q. And what do you understand an islander to be?
- 13 MS. ROHN: Object to the form.
- 14 Q. (Mr. Beckstedt) well, you perceived it as  
15 discriminatory or racist, correct? The word "islander"?
- 16 A. That's correct.
- 17 Q. Why?
- 18 A. Basically from past experience.
- 19 Q. Can you explain?
- 20 A. We worked in the refinery. Everybody that came  
21 from the States believed we cannot perform any task  
22 correctly.
- 23 Q. And that's your basis of -- that's it?
- 24 A. That's correct.
- 25 Q. Okay. And when did you first work in the

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39

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- 1 Q. Were you involved in any other lawsuits related to  
2 either discrimination or racism with respect to any of your  
3 work at the refinery?
- 4 A. Never.
- 5 Q. Okay. Now, you said that you also perceived the  
6 word -- Mr. Canning's use of the word "local" as racist or  
7 discriminatory, right?
- 8 A. Yes.
- 9 Q. And I have the same question: why did you  
10 perceive the word "local" as discriminatory or racist?
- 11 A. My position at the refinery was general  
12 superintendent for the entire refinery in the evening. Each  
13 one of these companies that I mentioned, they would have  
14 these -- brought these groups down from the States. And  
15 they would continue proceeding to a task, which they'd come  
16 to a roadblock, and they would also blame the locals, 'cause  
17 of their lack of knowledge.
- 18 I had to go behind of them and repair or fix  
19 these issues, where would they have said to the locals, you  
20 know, You guys are monkeys swinging from the trees. You  
21 guys are coconuts.
- 22 Q. To be clear, the "they" that you're referring to  
23 in this response were stateside contractors that were at the  
24 refinery back in the day, not -- not Mr. Canning, correct?
- 25 A. Not Mr. Canning.

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- 1 refinery?
- 2 A. '97.
- 3 Q. And who did you work for in '97?
- 4 A. IMC.
- 5 Q. What other contractors have you worked for at the  
6 refinery since IMC in '97?
- 7 Let's back up.
- 8 First of all, that was the Hess Virgin  
9 Islands Corp., HOVIC, refinery, right?
- 10 A. That's correct.
- 11 Q. Okay. So can you walk me through your history of  
12 working at the refinery?
- 13 A. Started out with IMC. Went to Jacob-IMC. Worked  
14 for Turner. Worked directly for HOVENSA. Worked for  
15 Pinnacle. Then worked for NIS.
- 16 Q. Okay. Do you remember approximately what year  
17 Mr. Adrian Melendez, Jr. started working at the refinery?
- 18 A. I think when they restarted with Limetree Bay.  
19 The year, I'm not sure. I'd be lying to you.
- 20 Q. Got it.
- 21 All right. Were you -- were you ever  
22 involved in any other -- you said -- well, let's back up.
- 23 You said this is the first time you've ever  
24 been deposed, right?
- 25 A. Yes.

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40

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- 1 Q. This is what informs you of --
- 2 A. Yes.
- 3 Q. -- why you perceive these words as being  
4 discriminatory?
- 5 A. That's correct.
- 6 Q. Understood.
- 7 And when you said you'd have to come behind  
8 them and repair and fix things, are you talking about the  
9 relationships with the workers, or the actual work?
- 10 A. The actual work, and the relationship with the  
11 employees.
- 12 Q. Okay. And the fixing of the actual work, you're  
13 saying you had to go -- you mean you, personally, or your  
14 crew had to go and fix work that was performed improperly by  
15 stateside contractors?
- 16 A. That's correct.
- 17 Q. Got it.
- 18 Who were complaining about the poor work of  
19 the, quote, unquote, "locals" or "islanders"?
- 20 A. That's right.
- 21 Q. Okay. All right.
- 22 Incidentally, do you consider yourself a  
23 local or an islander?
- 24 A. Yes.
- 25 Q. Okay. And what defines to you -- first of all,

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1 are those words interchangeable in your mind, or do they  
2 mean something different?

3 A. No. I think if you're a local, you live here.  
4 And if you're an islander, you've been here for quite some  
5 time. Can say this is home.

6 Q. So there's a difference in your mind between a  
7 local and an islander?

8 A. I would say the same thing.

9 Q. Okay. So you said a local lives here?

10 A. Um-hum.

11 Q. And an islander has been here a long time?

12 A. Considers yourself to be home, pretty much, yes.

13 Q. I'm sorry. Can you say that a little louder for  
14 the people that are --

15 A. Okay. A local, you know, they've been here. They  
16 lived here. The islander is a person who's born here.  
17 Consider that. Or somebody's moved here, and live here,  
18 also.

19 Q. Okay. Just to be clear, to understand this, you  
20 haven't -- you weren't born here, right?

21 A. No.

22 Q. And you were born where?

23 A. South America, Guyana.

24 Q. That's right. I remember.

25 And then grew up in --

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1 MS. ROHN: Don't guess. If you don't know,  
2 don't guess.

3 A. I don't know.

4 Q. (Mr. Beckstedt) Okay. Was Mr. Kirsch here during  
5 the period of time when Mr. Canning was engaging in this  
6 conduct with respect to Petro's work at the propane  
7 facilities?

8 A. I think he was there once.

9 Q. What's the one time you think he was? You are  
10 recalling?

11 A. In regards to St. Thomas.

12 Q. And what particular event?

13 A. Andrew Canning fell through a grating in  
14 St. Thomas.

15 Q. Okay. But at that time, Mr. Kirsch was already an  
16 employee of Petro, and in the capacity as safety  
17 representative?

18 A. Yes.

19 Q. Got it.

20 All right. Did -- did Petro, at that time,  
21 employ any other people who were not strictly skilled labor?

22 A. No.

23 Q. Okay.

24 MS. ROHN: I want to make it clear that  
25 Mr. Persuad is not our 30(b)(6) witness.

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1 A. New York.

2 Q. -- New York. Okay.

3 And you came down here as an adult?

4 A. Yes.

5 Q. Okay. And you've resided -- do you have a home  
6 anywhere else outside of St. Croix?

7 A. No.

8 Q. Okay. And am I clear in understanding that since  
9 1989, or just past Hugo, you've lived on St. Croix  
10 continuously?

11 A. Yes.

12 Q. No -- no exemptions to go live somewhere else?

13 MS. ROHN: We know what continuously means.

14 MR. BECKSTEDT: Thank you. Okay.

15 Q. (Mr. Beckstedt) Did Petro have anybody that worked  
16 as a safety officer at any time?

17 A. We have presently Frank Kirsch.

18 Q. Okay. When did -- do you consider him management?

19 A. No. He's a safety representative.

20 Q. Okay. Does he report to you?

21 A. Myself and Adrian.

22 Q. Okay. And how long has Frank Kirsch been with the  
23 company?

24 A. Knowledge serve me correctly, probably two to  
25 three years, or around --

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1 Q. (Mr. Beckstedt) Right. I understand.

2 This is your personal knowledge of the  
3 employees.

4 If I understand correctly, you reported  
5 directly to Mr. Melendez, correct?

6 A. Yes.

7 Q. And then everybody else in the company, with the  
8 exception of the office manager, reported to you, right?

9 A. Pretty much, yes. As I said, myself and Adrian,  
10 our employees reported to.

11 Q. Okay. But you could still direct all those  
12 employees, right?

13 A. That's correct.

14 Q. Okay. And Frank Kirsch is one of the employees  
15 that you could direct?

16 A. Yes.

17 Q. Okay. And when I say, "skilled labor," I'm  
18 talking about like your welders.

19 What are the skilled laborers that Petro  
20 employed during the period of time that it had the contract  
21 with IPQS for the propane facilities?

22 A. Welders, boilermakers, pipe fitters, electricians,  
23 instrument techs, civil personnels.

24 Q. Huh?

25 A. Civil personnels. Concrete workers and stuff like

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1 that. Rebar.

2 Q. All right. Did Petro employ a safety  
3 representative before Mr. Kirsch?

4 A. We had -- yes, we did. I can't think of his name  
5 right now. Josh.

6 Q. Josh.  
7 You can't remember his last name?

8 A. No.

9 Q. Can you describe Josh for me?

10 A. His position?

11 Q. No.

12 What -- do you know what race he is or --

13 A. Oh, white? Black?

14 Okay. He's white.

15 Q. Do you know if he was from the States?

16 A. From the States.

17 Q. All right. Do you know his national origin?

18 A. He's a redhead. I guess Irish.

19 Q. You don't consider him an islander or local,  
20 right?

21 A. No.

22 Q. Okay. I'm correct?

23 A. That's correct.

24 Q. All right. All right. Did -- oh, the office  
25 manager, what race would you consider her?

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1 Q. Do you know where Calvin Schmidt's from?

2 A. His parents are from Aruba, and I think he was  
3 born here.

4 Q. Okay. You consider him a local islander?

5 A. Yes.

6 Q. Okay. And you had one electrician?

7 A. Yes.

8 Q. And who was that?

9 A. Anthony Theodore.

10 Q. Anthony what?

11 A. Theodore.

12 Q. Okay. And do you know his race or ethnicity?

13 A. His parents are St. Lucian. He was born here.

14 Q. Another person you would consider a local  
15 islander?

16 A. Yes.

17 Q. And who was the designer?

18 A. It was Brian Melendez, the draft person.  
19 Designer.

20 Q. And that's Mr. Adrian Melendez's brother, correct?

21 A. That's correct.

22 Q. And do you know where Mr. Brian Melendez was born?

23 A. Texas.

24 Q. Okay. And do you know where he currently lives?

25 A. Texas.

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1 A. She's Hispanic from Puerto Rico.

2 Q. And do you understand, to your personal knowledge,  
3 that she is -- her national origin is Puerto Rican?

4 A. Yes.

5 Q. Do you know how long she's -- does she live on  
6 St. Croix or in Puerto Rico?

7 A. She lives on St. Croix.

8 Q. Do you know how long she's lived on St. Croix?

9 A. 2002, I would say.

10 Q. Okay. Do you consider her a local or an islander?

11 A. She's a local.

12 Q. Okay. All right. Are there any individuals that  
13 were kind of core Petro employees during the period of time  
14 that Petro had the contract with IPOS for the propane  
15 maintenance? The maintenance of the propane facilities?

16 A. Our welders, our boilermakers, our electrician,  
17 our instrument tech, and the individual who did a few  
18 designs for Andrew Canning.

19 Q. Okay. Do I understand that you had one instrument  
20 tech?

21 A. Yes.

22 Q. Was it the same person the whole time?

23 A. Yes.

24 Q. And who was that?

25 A. Calvin Schmidt.

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1 Q. And at the time that he was a designer, do you  
2 know where he was working? Or living?

3 A. Living on St. Croix.

4 Q. Okay. Do you know if Mr. Brian Melendez owns any  
5 property on St. Croix?

6 A. Not to my knowledge.

7 MS. ROHN: objection.

8 Q. (Mr. Beckstedt) All right. Do you consider him to  
9 be a local or an islander?

10 A. No. He does not consider himself to be a local  
11 islander. He always considered going back to Texas to live.

12 Q. And what about Mr. Adrian Melendez, Jr.? Do you  
13 consider him to be a local or an islander?

14 A. He's paying taxes and bought a house here.

15 Q. Where's his house?

16 A. Not sure.

17 Q. You don't know?

18 A. No.

19 Q. Never been there?

20 A. I've been there. I can't remember where it was.

21 Q. Do you know how you get there?

22 A. Buccaneer.

23 Q. And it overlooks the golf course?

24 MS. ROHN: objection. Relevance.

25 Q. (Mr. Beckstedt) Local islander relevance.

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1 A. Yes.

2 Q. It does overlook the golf course, right?

3 A. Yes.

4 Q. Are any of the welders that Petro employed, do you

5 consider any of those welders, that you mentioned, to be

6 non-local or non-islanders?

7 A. They all live in Puerto Rico.

8 Q. Are they -- do you know whether or not they're all

9 Hispanic or latino?

10 A. They're all latino.

11 Q. Okay. What about the boilermakers? Are there any

12 of the boilermakers that work for Petro that you would

13 consider not to be islanders or locals?

14 A. All of them are locals.

15 Q. Okay.

16 MS. FRANCIS: I'm sorry. All of them are

17 what?

18 A. Local. They live here on the island.

19 Q. (Mr. Beckstedt) Do you know if any of them were

20 originally from the States and moved here?

21 A. No, I don't know.

22 Q. In terms of the boilermakers?

23 A. I do not know.

24 Q. Okay. Does that pretty much cover all of the core

25 employees for Petro during the period of time that it had

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51

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1 Q. What do you know?

2 MS. ROHN: objection. Overly broad.

3 Q. (Mr. Beckstedt) You can answer.

4 A. I think it was the 3-inch WAPA line. Vent line,

5 that is. 3-inch vent line.

6 Q. And what do you recall happening with respect to

7 the questioning of the qualifications of the welders for the

8 3-inch vent line?

9 A. That's the only time I recall, for all the work

10 that we have done at IPOS, this is a vent line. It's not a

11 propane line. Propane line is much dangerous. This just

12 goes to atmosphere. Vent. We work on high-pressure stuff

13 in St. Thomas, St. Croix, and was never asked for any

14 certifications.

15 Q. So am I to understand what you're implying is that

16 you felt it was unusual that they would ask for

17 certifications on this particular job?

18 A. Yes.

19 Q. Do you have any knowledge as to the reason that

20 the certifications were asked for with respect to this

21 particular job?

22 A. No.

23 Q. Okay. Do you have any personal knowledge as to --

24 well, no. Strike that.

25 So were -- were -- well, let's back it up.

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1 the maintenance contract with IPOS?

2 A. Yes.

3 Q. Okay. Do you remember an employee named Kenia

4 Johnny?

5 A. Yes.

6 Q. Did she work for Petro when it had the contract

7 with IPOS?

8 A. She worked with Vivot when we had that contract.

9 Q. Oh, okay.

10 A. Briefly probably a month, or so, with us. With

11 Petro.

12 Q. All right. Are you familiar with the fact that

13 she sued Petro for discrimination?

14 A. Yes.

15 Q. Did you have any personal knowledge about any of

16 the facts underlying that lawsuit?

17 A. Not to my knowledge, no.

18 Q. Okay.

19 (Respite.)

20 Are you familiar with a point in time where

21 Mr. Canning questioned the certifications of Petro welders?

22 A. Yes.

23 Q. Okay. Do you have any personal knowledge about

24 those events?

25 A. Yes.

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52

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1 what -- what type of qualifications were the

2 Petro welders required to have at this time?

3 MS. ROHN: objection. Vague as to by whom.

4 Q. (Mr. Beckstedt) For Petro. Does Petro require its

5 welders to be qualified?

6 A. Yes.

7 Q. So what qualifications did Petro require at that

8 time for the 3-inch vent line?

9 A. Our welders have to go through a process.

10 Q. What is the process?

11 A. Pretty much to do a weld, and it would be examined

12 by a qualified person.

13 Basically, since we left the refinery, our

14 welders have been qualified all along, based upon their

15 welds, which was being done by x-ray, phase array. And if

16 somebody continue working in the same field, it's not

17 necessary to keep passing all their goals and their welds.

18 It's not necessary to go have somebody come from outside to

19 recertify them again.

20 Q. Okay.

21 A. Because you're using the x-rays as the test.

22 Q. All right. So let's break that down.

23 Your welders were certified when Petro was

24 doing work at Limetree?

25 A. Yes.

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1 Q. Okay. And incidentally, are you familiar with the  
2 fact that there's -- well, let's -- let me back up.  
3 was -- were the welders working for Petro at  
4 that time, or were they working for Vivot, when they were  
5 qualified at the Limetree facility?  
6 A. We were working for Vivot at the time.  
7 Q. Okay. So these welders were qualified while they  
8 were employees of Vivot?  
9 A. Yes. Petro also did work in the refinery with  
10 same welders, which made them qualified under Petro.  
11 Q. Okay. For the record, do you have -- do you know  
12 the names of these welders we're talking about?  
13 A. We have several welders in the refinery. Our  
14 staff was large. I may have remember one or two. Best  
15 guesstimate right now.  
16 Q. That's fine.  
17 who are the one or two that you remember, as  
18 you sit here today?  
19 A. Dan Martinez. Eduardo. The rest is vague to me.  
20 Q. That's fine.  
21 MS. FRANCIS: I'm sorry. What was the second  
22 name?  
23 A. Eduardo.  
24 Q. (Mr. Beckstedt) Eduardo.  
25 And what was Mr. Martinez's first name?

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1 Okay. And you were saying that if they're  
2 continuing to do welding, then they don't have to be  
3 requalified; is that right?  
4 A. That's not what I said.  
5 Q. Okay. Could you clarify that for me?  
6 A. I said, once the welders are welding and passing  
7 their welds, which is being done by shear wave or x-ray,  
8 that's how they continue with their qualifications.  
9 Q. Okay. And is there any period of time where, if  
10 they haven't done these welds, that they have to be  
11 requalified?  
12 A. Unless required by an entity.  
13 Q. What do you mean by that?  
14 A. If IP0S request it, or Limetree request it.  
15 Q. So Petro -- so Petro itself doesn't have any  
16 requirement that if its welders do not do particular welds  
17 for a period of time, that they have to be requalified?  
18 A. My understanding, for a qualification, we do it in  
19 house solely for Petro.  
20 Q. Okay. And I want to make sure I understand that.  
21 Did Petro ever, at any time, qualify the  
22 Petro welders in house?  
23 A. Yes.  
24 Q. And was there documentation for that?  
25 A. Like I said, based upon the x-rays and phase

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1 A. Dan.  
2 Q. Dan. Okay.  
3 Now, do these -- are there different types of  
4 welds that these guys do?  
5 A. Yes.  
6 Q. What are the types of welds they do?  
7 A. You have plate weld, structure weld, pipe weld.  
8 You weld on stainless steel. You weld on carbon pipe. You  
9 got weld with wire. Weld with stick.  
10 Q. Okay. And do they have to be qualified in each of  
11 these types of welds?  
12 A. Not necessarily.  
13 Q. Okay. Are there particular types of welds where  
14 they do have to be qualified in?  
15 A. Yes.  
16 Q. What are those welds where they're required to be  
17 qualified in?  
18 A. Once you work in a pressure vessel or pipe, you  
19 have to be qualified.  
20 Q. And is it a type of weld that you have to be  
21 qualified for?  
22 A. It could be stick or what's called TIG weld wire.  
23 Q. Tape?  
24 A. TIG. Yeah, TIG. T-I-G.  
25 Q. TIG. Got it. Sorry. I should have known that.

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1 arrays on several projects, they continued that way.  
2 Q. All right. I'm sorry, but I'm not understanding.  
3 You're telling me that your welders go out  
4 and do welding. And then someone comes along and inspects  
5 and does either a x-ray or phase array, correct?  
6 A. That's right.  
7 Q. Then somebody looks at the x-rays or phase ray --  
8 phase arrays, and approves or disapproves of the weld,  
9 right?  
10 A. That's correct.  
11 Q. And if they approve of the weld, you consider the  
12 welder to be qualified?  
13 A. Yes.  
14 Q. Okay. And if there's a period of time from the  
15 last time -- is there any period of time from the last time  
16 that welder's weld was either x-rayed or phase arrayed that  
17 could expire where you'd have to requalify the welder?  
18 A. That would be requested by a client.  
19 Q. Did Petro have any internal requirements in that  
20 regard?  
21 A. Once they're welding for us?  
22 Q. Yes.  
23 A. We don't have -- we don't need it if they're  
24 welding for us.  
25 Q. Okay. So if a guy did a weld for you, and it was

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1 x-rayed in January of a year, and then they were going to do  
2 a weld, say, in December of that same year, they wouldn't  
3 need to be recertified because of a lapse of time?

4 A. We're in the business of welding, and that's all  
5 we do. That's the majority of our bulk. We have not had a  
6 lapse in time, as far as a six-month's period or three-month  
7 period that we would have to requalify somebody. They've  
8 been continuous welding.

9 Q. Got it.

10 A. So there's no need internally for us, Petro, to  
11 ask for a qualification of the welder.

12 Q. Got it. Okay.

13 And do you keep records for each welder every  
14 time they do have these x-rays and phase arrays that keep  
15 them qualified?

16 A. It's our documentation for every job that we do.  
17 we have to keep paperwork.

18 Q. Okay. Do you have any internal documents that are  
19 tagged to the welders themselves that show that they're  
20 constantly doing these welds, and that the welds are, I  
21 guess, qualified or approved through the x-ray/phase array  
22 process?

23 A. Their stencils that go according to each welder.

24 Q. A what?

25 A. A stencil. A weld number.

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1 know, x-rayed or phase arrayed, and show that he's doing  
2 them correctly and he qualifies, there's no record I could  
3 go to at Petro to like see his welds?

4 A. That's a question for Adrian Melendez.

5 Q. Got it.

6 So not to your knowledge?

7 MS. ROHN: He's not Petro.

8 Q. (Mr. Beckstedt) Right.

9 But in your years of working for Petro, you  
10 haven't gone to go, you know, look in the files to check to  
11 see whether your welders are up on their welding and have  
12 been doing it correctly and they're still qualified,  
13 correct?

14 MS. ROHN: Objection to form. You can  
15 answer.

16 A. Right.

17 Q. (Mr. Beckstedt) Is that correct?

18 A. No. What I explained to you already, is our  
19 welders were continuing welding. If a welder failed by any  
20 reason, there's a red flag.

21 Q. Okay.

22 A. So he had a chance to correct that weld, and  
23 that's how he's qualified.

24 Q. Okay. Let me understand how that works in the  
25 field.

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1 Q. That's on the actual weld, though, right?

2 A. It's on the weld, and it says which welder would  
3 have.

4 Q. Right. But you'd have to go out to wherever they  
5 did the weld on the material to see the stencil, right? Or  
6 is that something that's kept at the office?

7 A. Prior to any work being done, there's a weld map  
8 that's been created. A drawing we have to follow. And you  
9 will see weld 1. If you got 20 welds, 1 through 20. And  
10 each welder that welds on -- you don't have to go out in the  
11 field, because you're looking at a weld map already. You  
12 could go out in the field, identify which welder is welding  
13 away.

14 Q. Got it.

15 But are there any records that are kept in  
16 the office --

17 A. Not to my knowledge.

18 Q. -- of Petro --

19 MS. ROHN: Let him finish.

20 Q. (Mr. Beckstedt) -- that would tell you that this  
21 welder did these welds?

22 A. Not to my knowledge.

23 Q. Okay. So if I wanted to just, for example, let's  
24 say I wanted to know, did Eduardo actually, you know, doing  
25 welds over the last six or eight months, that have been, you

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1 You've got a project.

2 A. Um-hum.

3 Q. You've got a welding diagram.

4 A. Um-hum.

5 Q. And your welder goes out, and, say, Eduardo, for  
6 example, or Eduardo, for example, does weld Number 4, and  
7 puts his stencil on it, right? So you know it's his weld.  
8 And then later, it comes -- someone comes along and x-rays  
9 it or phase arrays it to see if it's good, right?

10 A. Yes.

11 Q. Is that correct?

12 A. That's correct.

13 Q. Okay. And you're saying that if, on that imaging  
14 study that's done of the -- of the weld, it fails, there's a  
15 red flag, right?

16 A. Yes.

17 Q. Okay. Now, how -- what happens -- explain to me  
18 practically what happens that gets that welder, who got a  
19 red flag, requalified?

20 A. I'll go one step further.

21 We're doing a hundred welds. You're allowed  
22 a percentage of failure. Your percentage may be 10 percent.  
23 If you did a hundred, and you have one that is bad, that  
24 means all the weld pass.

25 Internally, how I proceed with my work, I

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1 would have then correct that.

2 Q. So they have to go out and redo the weld or cut  
3 out the pipe and put a new --

4 A. No cut out of pipe. No.

5 When you read an x-ray, you could say it  
6 passed, I could say it failed. It is an interpretation.  
7 There may be porous parts in a weld, slag in a weld, and if  
8 you are in the field as long, and you understand what you're  
9 doing, a new person would have been a little more lenient or  
10 more harsh, all depends how they read it. Your opinion and  
11 my opinion is totally different.

12 Q. Okay.

13 A. And it's the same thing when you read an x-ray or  
14 a phase array.

15 Q. In the example that you just gave, where if you do  
16 a hundred welds and only one fails, they all pass, because  
17 it's within the percentage of error that's allowed, right?  
18 Are you talking about the same welder does all hundred, or  
19 could it be different welders?

20 A. It could be different welders.

21 Q. Got it.

22 So what has to happen -- let's say that  
23 you've got one welder, who's routinely failing a weld, how  
24 do you monitor the quality control for that?

25 A. I would fire him.

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1 Q. Okay. So you don't requalify him or give him --

2 A. No.

3 Q. -- any training?

4 A. No.

5 Q. Got it.

6 And when you find -- you said that even if  
7 you find one red flag, even though it passes as a whole, you  
8 will address that red flag?

9 A. That is correct. We correct it.

10 Q. Do you send the same welder out to correct it, or  
11 a different one?

12 A. Same welder.

13 Q. Got it.

14 A. Because that's where the red flag would come in.

15 Q. And then it gets re-phase arrayed?

16 A. It has to.

17 Q. Got it.

18 But when you're doing a welding job, you do  
19 not -- or do they typically image every single weld, or do  
20 they just pick a sampling? Like if you had a hundred welds,  
21 would they go and image all hundred welds?

22 MS. ROHN: Objection to form. Compound.

23 Q. (Mr. Beckstedt) Okay. Let me rephrase the  
24 question.

25 Let's just use your example, where you got a

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1 project that's going to have a hundred welds on it, okay?  
2 will -- will every weld be imaged?

3 A. No.

4 Q. Okay. Yes?

5 A. May I?

6 Q. You may.

7 A. We're talking about IPOS.

8 Andrew Canning or WAPA would select whatever  
9 weld -- which weld they would like to inspect. Not Petro.  
10 So they may select the one on the highest point, the one in  
11 the lowest point, the middle, wherever. It's not being  
12 done, okay, we have the best welder, and we pick that one to  
13 do it. It's not like that.

14 Andrew Canning or WAPA would come and select  
15 which weld they would like to have phase arrayed or x-rayed.

16 Q. Okay. Getting back to the welder qualifications  
17 for the 3-inch vent line.

18 Did you have any -- did you participate at  
19 all in getting those welders qualification certificates?

20 A. No.

21 Q. Okay. Do you have any knowledge about what the  
22 welders had to do to get those qualification certificates?

23 A. They had to go through a test, of course.

24 Q. Okay. Did you have any involvement in arranging  
25 for that testing to happen?

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1 A. No.

2 Q. And you didn't participate in traveling to go see  
3 that testing done, correct?

4 A. No.

5 Q. All right. Do you know whether anybody did attend  
6 that -- that testing?

7 A. You don't have to.

8 Q. I realize. I'm sorry. My question is just  
9 simply, do you know if anybody attended the testing with the  
10 welders?

11 A. I'm saying to you, no, you do not have to. You  
12 could send a welder to Alabama, New York, to be tested, and  
13 you get a piece of paper back internally for your own use.  
14 So no one has to go and witness. It's that company  
15 reputation is going to be on the line that they tested a  
16 particular welder, and he passed or failed, or whatever the  
17 situation may be, and he using that piece of paper.

18 Q. Understood. I get that nobody has to go. I'm  
19 just asking if anybody did?

20 A. I don't know.

21 Q. Okay. Do you know who did the testing?

22 A. Guillermo.

23 Q. Do you know Guillermo?

24 A. I've met him once or twice in the refinery.

25 Q. Okay. Do you know who he worked for at the time

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1 that he did the testing of the Petro welders related to the  
2 3-inch vent line?

3 A. No.

4 Q. Okay. Do you have knowledge as to his  
5 certification?

6 A. He worked for Acuren, as -- my knowledge of  
7 Guillermo, he created the phase array. So he's well  
8 straight up when it comes to welding. Ain't nothing else  
9 that I can say bad about this guy in regards to his  
10 qualification. It's not by me. It's not by Acuren or  
11 versa. Anybody. He's well-known in the industry. Not by  
12 my opinion, but anyone in the industry you speak to, he's  
13 well recommended.

14 Q. Got it.

15 (Respite.)

16 MS. ROHN: Can we take a bathroom break?

17 MR. BECKSTEDT: Yeah. That's fine.

18 (Short recess taken.)

19 Q. (Mr. Beckstedt) Petro has alleged in this action  
20 that some of Andrew Canning's decisions were in error or  
21 improper.

22 Do you have any knowledge of specific  
23 instances where Mr. Canning's decisions, as to operations,  
24 were in error or improper?

25 A. So I'm not involved in operations for IPOS, so I

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1 cannot make a decision for that, or an opinion in that.  
2 That's solely IPOS.

3 Q. Okay. So just to be clear, then -- hold on a  
4 second. Let me check something. Bear with me.

5 Let me make sure. Let me re-ask the  
6 question. Make sure that I got a clear answer.

7 Did you ever point out to Andrew Canning that  
8 his decisions as to operations were in error or improper?

9 A. So it's a little confusing right here.

10 So there's something called Operation IPOS,  
11 where they process the propane, and those people work for  
12 operations.

13 Q. Okay.

14 A. If you're speaking about work in the field, I  
15 mean, I can answer to that.

16 Q. Okay.

17 A. But if you say, "operations," I'm thinking the  
18 process that the employee, IPOS employee, deals with.

19 Q. All right. Well, then, let's talk about work in  
20 the field.

21 A. Yes.

22 Q. What can you answer as to work in the field?

23 MR. SIMPSON: If you guys have begun, I'm not  
24 hearing anything.

25 MR. BECKSTEDT: Can you hear me, Andy, or

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1 not?

2 MR. SIMPSON: Sorry. The problem was on my  
3 end. It's fixed.

4 MR. BECKSTEDT: No problem.

5 THE WITNESS: Repeat your question, please.

6 Q. (Mr. Beckstedt) Okay. With respect to work in the  
7 field, did you ever point out to Andrew Canning that any of  
8 his decisions were in error or improper?

9 A. Andrew role at IPOS, from my knowledge, as long as  
10 I've known him, he's very procrastinated in everything that  
11 he do, which causes a delay in maintenance, which internally  
12 causes operation to spend money.

13 For example, on several piping that we could  
14 have done within a month, he would have send it off, and it  
15 would take at least a year. We will have leaks in the  
16 plant. We would have to put clamps on these pipes. The  
17 valves would fail. And that's how I would say -- that's one  
18 instance he would hinder their operation.

19 There's certain valves that he wants to  
20 replace. It's been over three years since we've been  
21 working there, I think, roughly, and he has not produced any  
22 of these valves.

23 We have brought Traeger Brother to site. The  
24 valves are available in two or three months, and Andrew  
25 Canning would not order the valves.

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1 So, I mean, if you're asking me, he's holding  
2 back, or he's somewhat not working with them, I would say,  
3 yes, he's holding them very much back.

4 Q. Okay. Did you ever bring this up directly to  
5 Andrew Canning, what you've just explained?

6 A. Yes.

7 Q. And how did he respond?

8 A. You guys are overpriced. You guys don't know what  
9 you're doing. It's going to take us longer, Petro longer to  
10 do the job. And we've even proved to him on several  
11 occasions we could possibly do it in a shorter time that  
12 he's estimating. Not a year. Something that could be done  
13 in months or weeks. Not years.

14 Q. Can you give me an example of one occasion where  
15 you proved to him that you could do it in a shorter time?

16 A. In St. Thomas, the welds that he wanted to bring a  
17 company in to do the welds, we did it within, I think, three  
18 days.

19 Q. Which project was that?

20 A. This was the tie-in for the -- I think the tie-in  
21 for the loading rack. I think it's the loading rack, yes.  
22 I think it's the loading rack.

23 And I can point out another one. The first  
24 job I worked with Andrew Canning is in WAPA, demo a -- I  
25 think it was a 6-inch line in WAPA. Andrew wanted 21 days.

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1 I looked at the job, and I told Andrew, this job could be  
2 done in three days. He said we're crazy. We don't know  
3 what we're talking about. We're unsafe.

4 I proved to him. He was on site. Within two  
5 days, the job was done.

6 Q. Just to be clear, this job related to something  
7 that Petro did directly for WAPA, not through the IPOS  
8 contract; is that correct?

9 A. This is for -- IPOS lines run through WAPA. So  
10 they're feeding them propane. All the propane lines belongs  
11 to IPOS. So this is a IPOS job in WAPA that we're talking  
12 about.

13 Q. Okay. I just wanted to be clear on that.

14 A. Yes.

15 Q. So this -- and this job was a demo of a 6-inch  
16 line?

17 A. Yes. In St. Thomas.

18 Q. In St. Thomas. Okay.

19 All right. Do you have any personal  
20 knowledge of Andrew Canning doing anything to retaliate  
21 against you for bringing up these issues with respect to  
22 error or impropriety?

23 A. Yes.

24 Q. What, specifically? What is that knowledge?

25 A. He would go out further out of his way to prolong

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71

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1 valves, and that's where the valves, Dave Tillman said the  
2 valves are available within two months. And these valves  
3 had been sourced about three to four years with Andrew  
4 Canning.

5 Q. Okay. So who, exactly, was present at that  
6 meeting?

7 A. Merlin, Rawle Granger, Coury Hodge, myself,  
8 Merlin. I said Merlin, right? Yeah.

9 Q. And Dave Tillman from Traeger Brothers?

10 A. That's correct.

11 Q. And was Andrew Canning at the meeting?

12 A. He was right next door. He was not at the  
13 meeting.

14 Q. Okay.

15 A. He was in his office.

16 Q. So, to your knowledge, you don't know that he  
17 heard anything that was said at the meeting?

18 A. No. Don't know.

19 Q. Okay. All right. And do you know whether Andrew  
20 Canning ever had any knowledge of what was said at the  
21 meeting at any point?

22 A. No, I would not have know.

23 Q. Okay. And -- all right. Fair enough.

24 with respect to the -- oh, never mind.

25 okay. Do you recall there coming a time when

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1 our jobs, or to reject our quotes.

2 Q. And what informs you that he went out of his way  
3 to do that?

4 A. For example, in this RIO panel, we gave him three  
5 quotes that he requested. First one was too high. The  
6 second one was too low. The third one, we send them back  
7 the first quote, and it's okay.

8 Q. And so did they ultimately accept that third  
9 quote?

10 A. Andrew Canning did.

11 Q. And you got the work?

12 A. Yes.

13 Q. Do you recall a meeting with Traeger Brothers in  
14 June of 2021, June 22nd, 2021, where, if I understand  
15 correctly, Petro told IPOS that Canning was a problem for  
16 delays?

17 A. I don't know if Petro told him that. I was  
18 present at the meeting.

19 Q. And what do you remember about the meeting?

20 A. Dave was here on island and he was visiting  
21 St. Thomas.

22 Q. Dave who?

23 A. Dave Tillman. And he was visiting St. Thomas, and  
24 he asked for a meet with Merlin, at the time, in St. Thomas.  
25 The conversation came up during the meeting about the

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72

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1 there was a concern about Andrew Canning communicating  
2 directly with Petro?

3 A. Andrew Canning have to communicate directly with  
4 Petro. That's how the work is to proceed at IPOS. Any kind  
5 of maintenance, any kind of activities, Andrew Canning was  
6 the one who was instructing us from the beginning.

7 Q. Okay. All right. Do you ever recall there  
8 becoming an issue with respect to him communicating directly  
9 with Petro, such that he then began communicating through  
10 Merlin or IPOS?

11 A. Andrew had a problem with communicating with our  
12 employees and Petro, so that's why I was sent on every  
13 project, St. Thomas/St. Croix, so he could communicate  
14 through me to the employees. They speak perfectly good  
15 English. They understand clear directions. But he wanted  
16 to tell them what and how to do their job.

17 Q. Okay. And that was of concern to Petro?

18 A. It's a cost to Petro, because Andrew Canning did  
19 not want to pay for my salary, my plane ticket, my hotel  
20 going to St. Thomas.

21 Q. Okay. All right. I want to make sure I  
22 understand what your testimony is.

23 You're saying that you became an intermediary  
24 between Mr. Canning and the Petro workers?

25 A. Yes.

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1 Q. All right. And did you have any problem with  
2 that?  
3 A. That's how I make my living.  
4 Q. Right. Okay.  
5 A. So I shouldn't have a problem with it.  
6 Q. And Petro then directs its own employees, right?  
7 A. Yes.  
8 Q. And you -- is it your testimony that Andrew  
9 Canning should or should not have been communicating  
10 directly with the Petro employees?  
11 A. Should.  
12 Q. You think he should?  
13 A. Yes, 'cause if you're not paying me, why should I  
14 go there? Who's paying me? Andrew Canning don't want to  
15 pay me. So why am I going to buy a plane ticket, rent a  
16 car, pay a hotel, and don't get pay? Does that make any  
17 sense to anyone?  
18 Q. So what -- are we talking now about a specific  
19 project that was going on in St. Thomas?  
20 A. Every project that went on in St. Thomas.  
21 Q. Every single project?  
22 A. Yes.  
23 Q. All right. And so did Petro have -- the employees  
24 that we're talking about, did they have employees that were  
25 residing in St. Thomas?

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75

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1 St. Thomas who lived there.  
2 Q. Okay. And Johnny Alfonseca was in charge of the  
3 maintenance people in St. Thomas?  
4 A. That's correct.  
5 Q. Okay. And were the maintenance people welders and  
6 boilermakers and alike?  
7 A. Boilermakers.  
8 Q. Just boilermakers?  
9 A. Boilermakers. Yes, just boilermaker.  
10 Q. Okay. Do you know if any of those boilermakers in  
11 St. Thomas were from the States?  
12 A. No.  
13 Q. They were all from St. Thomas?  
14 A. St. Thomas.  
15 Q. Okay. And do you know whether or not Andrew  
16 Canning had any difficulty communicating with Johnny  
17 Alfonseca?  
18 A. Yes.  
19 Q. And how -- what's your knowledge of that?  
20 A. Johnny take his responsibilities from Coury Hodge.  
21 while doing so, Andrew would interrupt Johnny's job or his  
22 task for the day, pull him off, do something else. And  
23 because on several occasion, Andrew pointed out that he is  
24 the representative of vito here. He had to stop his task,  
25 and do something else.

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1 A. No.  
2 Q. Okay. So they were either coming from St. Croix  
3 or Puerto Rico?  
4 A. St. Croix and Puerto Rico, yes.  
5 Q. And they would go to the St. Thomas facility to do  
6 a project?  
7 A. Yes.  
8 Q. All right. And did they have a foreman or a  
9 superintendent that was overseeing their work?  
10 A. Johnny is the superintendent over there.  
11 Supervisor over there.  
12 Q. And what's -- is that Johnny's first name or last  
13 name?  
14 A. Johnny Alfonseca.  
15 Q. Johnny Alfonseca?  
16 A. Yes.  
17 Q. Is he Puerto Rican?  
18 A. I think he's Dominican.  
19 Q. Okay. Where did he live at that time?  
20 A. St. Thomas.  
21 Q. So you did -- so Petro did have someone who lived  
22 in St. Thomas?  
23 A. So projects, and you got maintenance. So the  
24 maintenance people, if we got to bring them back and forth,  
25 that would be a big cost, so we did get a few guys from

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76

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1 At the end of the day, Johnny's task would  
2 not be completed, he's doing what Andrew wanted, not what  
3 Coury Hodge wants. So we had a problem with communication  
4 there. Coury Hodge would call us directly. Adrian. Adrian  
5 will ask me what happened here.  
6 Talk to Johnny, 'cause we're in St. Croix,  
7 he's in St. Thomas. And that was the explanation. Andrew  
8 would pull him off, do this over here. He had the task for  
9 the day with Coury Hodge, and communication breakdown back  
10 and forth.  
11 Q. All right. So am I to understand, then, as a  
12 result of this communication breakdown, you got put into the  
13 intermediary position?  
14 A. On all projects, yes. On projects, not  
15 maintenance.  
16 Q. So putting aside whether or not people agreed to  
17 pay you or not to do that, you then became the intermediary  
18 for Petro with Canning?  
19 A. Yes.  
20 Q. And then Canning would talk to you about the scope  
21 of the work, and then you could have your employees do it?  
22 A. Yes.  
23 Q. All right. And did you have any problems  
24 communicating with Mr. Canning?  
25 A. No.

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- 1 Q. Okay. So was that a workable solution?
- 2 A. That was a workable solution.
- 3 Q. Okay. There was a point in time, I think it's
- 4 February of 2021, when Mr. Canning had a fall on a platform
- 5 in St. Thomas, right?
- 6 A. Yes.
- 7 Q. Were you personally present at that time?
- 8 A. I was on site. I wasn't present where he was. He
- 9 was in WAPA; I was on IPOS.
- 10 Q. Okay. And just so I'm clear, when you say you
- 11 were "on IPOS," you were in IPOS, does that mean you were in
- 12 the propane facility?
- 13 A. In St. Thomas, the propane facility is up here.
- 14 And about a 20-minute ride or 10-minute ride down, that's
- 15 where WAPA is, down here.
- 16 Q. Okay. And that's different from the way it's set
- 17 up in St. Croix?
- 18 A. Yes.
- 19 Q. And, just for the record, how is the setup in
- 20 St. Croix?
- 21 A. It's right next door to each other.
- 22 Q. Got it.
- 23 And were you called to the WAPA part of the
- 24 facility after the incident?
- 25 A. No.

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- 1 about any incident?
- 2 A. Right.
- 3 Q. And then encountered him?
- 4 A. Right.
- 5 Q. Got it.
- 6 And what -- did you ever come to make -- have
- 7 an understanding of what happened?
- 8 A. Yes.
- 9 Q. And what was your -- what informed your
- 10 understanding?
- 11 A. My understanding, the task was not completed on
- 12 that platform that Andrew Canning went up. Fall through.
- 13 Q. Okay.
- 14 A. If Andrew Canning had gotten a permit from IPOS,
- 15 he would have understand that. Operations will give you the
- 16 permit. Petro tells them, because that's who we are working
- 17 for. It's their facility. This job is incomplete. We're
- 18 missing some clips. Please barricade it off. Don't let
- 19 anybody go in there. That was told to Coury Hodge.
- 20 Q. And Coury -- for the record, Coury Hodge is who?
- 21 A. The maintenance for IPOS. He runs the maintenance
- 22 department.
- 23 Q. And who told Coury Hodge that the job was not
- 24 complete?
- 25 A. Myself.

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- 1 Q. Okay.
- 2 A. I was called to Andrew Canning office, where he
- 3 was ranting, cursing with foul language in regards to the
- 4 poor, shitty, shoddy work, incompetent welders that Petro
- 5 kept. Can't do anything correctly.
- 6 Q. And that was Mr. Canning's office in St. Thomas?
- 7 A. That's correct.
- 8 Q. And that was at the WAPA facility?
- 9 A. That's at the IPOS facility.
- 10 Q. So that was at the IPOS facility --
- 11 A. Yes.
- 12 Q. -- up on the hill?
- 13 A. That's correct.
- 14 Q. All right. Just so I have the chronology correct,
- 15 Mr. Canning had his incident down in the WAPA facility.
- 16 Then made his way back up to his office in the IPOS
- 17 facility, where you were already up at the IPOS facility,
- 18 and then you went, when you were called to his office?
- 19 A. That's right.
- 20 Q. Okay. And was that the first you had notice of
- 21 what had happened to Mr. Canning, or had somebody either
- 22 radioed or telephoned you before you met with Mr. Canning?
- 23 A. No. I didn't know what he was calling about.
- 24 Q. Got it.
- 25 So you went in there, innocent of knowing

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- 1 Q. And when did you do that in relationship to when
- 2 Andrew Canning had his incident?
- 3 A. About two weeks prior.
- 4 Q. So the job had been incomplete for two weeks,
- 5 waiting on the clips?
- 6 A. That's correct.
- 7 That's right after the storm, when they had
- 8 all the shipment not coming in, so the clips were missing.
- 9 Q. You're talking about the Irma/Maria storms?
- 10 A. Yeah. Somewhere around there.
- 11 Q. So it's late 2017?
- 12 A. Right.
- 13 Q. All right. Am I correct that Petro did not
- 14 barricade the area or put up tape or caution tape to keep
- 15 people off the platform; is that correct?
- 16 A. Petro do not have to do that. We have to report
- 17 this to Coury Hodge. It's their equipment. It's their
- 18 property. They will have to barricade it off.
- 19 Q. All right. So Petro did not do that, right?
- 20 A. No.
- 21 Q. Okay. And your testimony is that Petro did not
- 22 have to do that?
- 23 A. No.
- 24 Q. That IPOS should do that?
- 25 A. Yes.

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81

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- 1 Q. But Petro could have done it, correct?
- 2 MS. ROHN: Objection. Argumentative.
- 3 Q. (Mr. Beckstedt) Am I right, if Petro is working on
- 4 the platform, when it's done, knowing the platform is not
- 5 completed, it could have put some sort of sign or barricade
- 6 up, correct?
- 7 A. So there's certain valves on top of there.
- 8 Operation went up there. They were knowledgeable that it
- 9 was not complete. They have to open the valves on top of
- 10 this platform. On every shift and every day. No one fell
- 11 through. Operations was aware of the situation.
- 12 If someone was pretty much aware, and go
- 13 through the proper steps to go down in there, they clearly
- 14 would have known.
- 15 Q. Got it.
- 16 Did you do an investigation of this incident?
- 17 A. Our safety person did the investigation, not
- 18 myself.
- 19 Q. And that was Mr. Kirsch?
- 20 A. That's right.
- 21 Q. All right. And so the information that you have
- 22 is based upon -- did you review that incident report?
- 23 A. No, I did not.
- 24 Q. You did not?
- 25 A. No.

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83

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- 1 Q. -- standing in the doorway? You're inside the
- 2 office?
- 3 A. Yes.
- 4 Q. Who else was there, other than Mr. Canning,
- 5 Mr. Nagle, and yourself?
- 6 A. Frank Kirsch came after.
- 7 Q. So while the meeting was going on, Mr. Kirsch
- 8 attended?
- 9 A. Yes.
- 10 Q. Got it.
- 11 Did Mr. Kirsch say anything?
- 12 A. It was not a meeting. This was a shouting match.
- 13 Q. I understand.
- 14 But while the conversation, the shouting
- 15 match, was occurring, Mr. Kirsch showed up?
- 16 A. Yes.
- 17 Q. All right. Did Mr. Kirsch engage at all?
- 18 A. Mr. Kirsch got very upset, because Andrew Canning
- 19 start cursing at Mr. Kirsch.
- 20 Q. What were the curse words that Mr. Canning used?
- 21 A. What the F are you guys doing here? You're
- 22 supposed to be the F-ing safety person, and I fell through
- 23 the platform.
- 24 Q. Okay. Is there anything else about that
- 25 conversation that you recall happening?

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82

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- 1 Q. So did you speak with Mr. Kirsch?
- 2 A. Adrian Melendez would have done it.
- 3 Q. Where are you getting your knowledge of what
- 4 happened to Mr. Canning? Just from Mr. Canning?
- 5 A. From Mr. Canning.
- 6 Q. Okay. And what exactly did Mr. Canning tell you
- 7 happened?
- 8 A. He fell through the grating.
- 9 Prior for him saying so, David Nagle was with
- 10 him. He said Andrew was jumping on the platform.
- 11 Q. Did David Nagle say that to you?
- 12 A. To me. Right -- Andrew was sitting right here.
- 13 David Nagle was standing right in the door.
- 14 Q. Got it.
- 15 A. And he fell through the platform by jumping on the
- 16 platform.
- 17 Q. And this is Mr. Canning's office?
- 18 A. Mr. Canning's office in St. Thomas, yes.
- 19 Q. So you get called to Mr. Canning's office, which
- 20 you don't know why he's calling you?
- 21 A. Um-hum.
- 22 Q. He's upset or furious about the incident?
- 23 A. Yes.
- 24 Q. Mr. Nagle is there as well --
- 25 A. That's correct.

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84

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- 1 A. Not to my knowledge. Not with Mr. Kirsch.
- 2 Mr. Kirsch turned around and walked out. Said, you will not
- 3 be speaking to me like that. I do not communicate that way
- 4 to you, and he turned around and left.
- 5 Q. Okay. Do you have knowledge regarding Mr. Canning
- 6 blaming the Petro crew for forging gate logs related to the
- 7 RIO Shades project?
- 8 A. Yes.
- 9 Q. Okay. I believe that's one of the incidents you
- 10 were talking -- referring to earlier on in the testimony,
- 11 correct? About Mr. Canning's discriminatory conduct?
- 12 A. Yes.
- 13 Q. All right. What do you know about that? What
- 14 personal knowledge do you have about the RIO Shades, the
- 15 allegations for forging the gate logs?
- 16 A. In St. Thomas and St. Croix, it's different.
- 17 In St. Thomas, the security guard will stop
- 18 you, and ask you, and give you to sign yourself in.
- 19 On St. Croix, the security guard would sign
- 20 you.
- 21 Q. Okay.
- 22 A. You'll just have to show up. What's your name.
- 23 Mr. Persuad, they sign you in. You work for Petro? Yes.
- 24 They'll put that down.
- 25 Q. Okay. I got you.

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1 So in St. Thomas, the workers have to sign in  
2 their time?

3 A. Yes.

4 Q. And --

5 A. You sign a gate log. Time of entrance. You go to  
6 lunch or whatever. You leave the facility to go to Home  
7 Depot, electrical store, whatever, you will sign out and  
8 sign back in.

9 Q. Okay. And you signed this log yourself?

10 A. Yes. In St. Thomas. Not in St. Croix.

11 Q. Right.

12 And in St. Thomas, who writes the time down  
13 on the logs?

14 A. Security.

15 Q. Got it.

16 So there's a gate log --

17 A. Yes.

18 Q. -- in St. Thomas?

19 A. Yes.

20 Q. Is that different from the timesheets that -- that  
21 Petro fills out for its employees?

22 A. I wouldn't say what the gate log reflect, but if  
23 we're there for eight hours, and we leave to go to the store  
24 to buy material or parts that we need, that gate log will  
25 reflect that.

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1 Q. I get it. But what I'm trying to say is, the gate  
2 log is not the document that Petro uses for recording its  
3 employees' time, correct?

4 A. No.

5 Q. You use a Petro document?

6 A. That's correct.

7 Q. A timesheet?

8 A. Yes.

9 Q. Okay. Who fills out the timesheet for the Petro  
10 employees?

11 A. The supervisor who's on site.

12 Q. Okay. So if it was maintenance work over in  
13 St. Thomas, would that be Mr. Alfonseca?

14 A. That's correct.

15 Q. Got it.

16 And so he fills out a timesheet for his crew?

17 A. Yes.

18 Q. All right. And so I understand the difference now  
19 between St. Thomas and St. Croix's gate logs.

20 Can you please continue to tell me what  
21 knowledge you have about Andrew Canning blaming the Petro  
22 crew for forging gate logs?

23 A. Yes.

24 Job in regards to the RIO panel?

25 Q. Correct.

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1 A. I spoke to Andrew Canning prior to that happened  
2 the day before, that our employees would be on site. We had  
3 an emergency. I phoned Mr. Canning. Our employees will be  
4 a little late. Our supervisor, Elias, dropped the employees  
5 off and went to look at the emergency. So the employees was  
6 there on site: His welder, fitter, and -- I think his  
7 welder and fitter. And Mr. Elias Rivera went to look at  
8 another job.

9 Q. This is St. Thomas, right?

10 A. St. Croix.

11 Q. This is St. Croix?

12 A. Yes.

13 Q. I apologize.

14 And we're talking about Elias Rivera?

15 A. Yes.

16 Q. Okay. So he was the counterpart to Mr. Alfonseca,  
17 but on St. Croix?

18 A. On this particular job, yes.

19 Q. Okay. So he dropped off the welder and fitter,  
20 and then went to look at an emergency at another project  
21 that Petro was doing somewhere else?

22 A. That's correct.

23 Q. Okay. And so -- so continue. So how -- so -- so  
24 tell me what knowledge you have about Andrew Canning blaming  
25 the Petro crew for forging the gate logs?

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1 A. Like I said, on St. Croix, the security guard  
2 would sign you in.

3 Q. Uh-huh.

4 A. The guys -- two guys showed up. They went in.  
5 Elias went about his business. Andrew Canning went back and  
6 saying these guys signed in at 7 o'clock, when they were not  
7 there at 7 o'clock. That's my understanding.

8 Q. Okay. So what I'm confused about, or not  
9 understanding in your testimony, is what was Andrew Canning  
10 looking at that suggested that --

11 A. The gate logs.

12 Q. The gate logs.

13 That are filled out by the security guard?

14 A. Yes.

15 Q. So what you're saying is that Andrew Canning was  
16 falsely accusing the Petro employees when, in fact, it's the  
17 security guard who doctored the logs or miswrote the time?

18 A. Yes.

19 Q. That's Petro's -- that's your understanding?

20 A. That's my understanding.

21 Q. Okay. Did you ever look at the gate logs?

22 A. Yes.

23 Q. All right. And what time did the gate logs  
24 reflect?

25 A. I can't -- I don't know, honestly.

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- 1 Q. Okay. How did you get pulled into this situation?
- 2 A. Because I was running that job.
- 3 Q. So Canning spoke to you?
- 4 A. Canning spoke to myself and Adrian, yes.
- 5 Q. And then am I following correctly, that you then
- 6 went and looked at the logs?
- 7 A. Yes.
- 8 Q. Okay. So you went over to the security guard and
- 9 asked, Can I see the logs?
- 10 A. Well, I think how -- Andrew Canning pulled the
- 11 logs. Photocopied or sent it out. I can't remember
- 12 exactly. And then after, maybe about 12 o'clock or after
- 13 1:00, or whatever, whatever time, I went to look at the
- 14 logs. But I think Andrew Canning already made a scene about
- 15 this.
- 16 In the past, Andrew Canning has always
- 17 accused us of stealing time. Stealing the company's money.
- 18 And we -- all Andrew Canning has to ask, if he doesn't
- 19 understand the timesheet, or if there's a correction to be
- 20 made, it will be made, and it always has been that in the
- 21 past.
- 22 Q. Okay. Would you agree with me that there have
- 23 been times where the timesheets have been questioned and
- 24 then they've been corrected?
- 25 A. Yes.

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91

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- 1 Petro to correct one or two hours in a timesheet.
- 2 Q. Okay.
- 3 A. And basically, upon myself, when I put myself on
- 4 that timesheet.
- 5 Q. All right. So are you talking about the incident
- 6 where --
- 7 A. Several incident. Not just this incident.
- 8 Q. Okay.
- 9 A. Several incidents.
- 10 Q. Have any of the labor, non-management employees'
- 11 time, been corrected on any timesheets that have been
- 12 submitted for Mr. Canning's review?
- 13 A. Based upon, like I said, three months or four
- 14 months. It was done for convenience to Andrew Canning in
- 15 order for Petro to get paid.
- 16 Q. Okay. So that's -- that's different.
- 17 So what you're saying is, Petro submitted
- 18 timesheets that it believed, and to this day believes,
- 19 accurately reflected the time that its employees worked,
- 20 correct?
- 21 A. Yes.
- 22 Q. Andrew Canning had problems with those timesheets.
- 23 And Petro, motivated by getting paid and not having invoices
- 24 held up, decided to change the time to meet Andrew Canning's
- 25 approval, and then resubmit the changed timesheets so that

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- 1 Q. And they were -- would you agree with me that
- 2 there have been times where Petro's timesheets were
- 3 corrected because they were incorrect?
- 4 A. No.
- 5 Andrew Canning was -- he had to have an
- 6 understanding of how the timesheet is.
- 7 For example, again, if I put my time on the
- 8 timesheet, I'm running this job, and I can't get paid for
- 9 it, who's going to pay me?
- 10 Q. Okay. I understand what you're saying, but I'm --
- 11 what I want to know is, you've told me that Petro has
- 12 corrected its timesheets in the past?
- 13 A. Yes, I have.
- 14 Q. All right. Corrected, in and of itself, means
- 15 that the timesheet was incorrect, so then it gets corrected.
- 16 That's what the word "corrected" means.
- 17 Do you have a different understanding of the
- 18 word "corrected"?
- 19 A. No.
- 20 Q. Okay.
- 21 A. The correction we made was a error on behalf of
- 22 Andrew Canning, and where Petro lost, several times,
- 23 hundreds of dollars. The reason being, the timesheets are
- 24 coming three months later after our job is done. And Andrew
- 25 Canning would hold up three to six months of payroll of

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92

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- 1 it could get paid? That's what you're saying?
- 2 A. Yes. That's exactly what I'm saying.
- 3 Q. Okay. That's what I'm trying to understand.
- 4 So you have never corrected timesheets
- 5 because they were incorrect; you've just changed them to
- 6 satisfy the customer, so to speak?
- 7 A. Yes.
- 8 Q. And you believe that every one of those timesheets
- 9 that you've -- that Petro has changed, were actually
- 10 correct, right?
- 11 A. Exactly.
- 12 Q. Okay. And those timesheets were completed by
- 13 not -- there's no -- so there's no individual sign-in that
- 14 Petro requires its employees to complete?
- 15 A. At the end of the day, the supervisor and his crew
- 16 would have -- we have Johnny. We have Simon. We have
- 17 Adrian on a timesheet. At the end of the day, you'll put
- 18 the times in for each, and submit something to the office at
- 19 the end of the week.
- 20 Q. Got it.
- 21 Am I correct that there came a time where
- 22 Andrew Canning saw a timesheet that had an employee getting
- 23 paid for time that would have included periods prior to them
- 24 being logged into the facility on the security guard logs?
- 25 A. Not to my knowledge.

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- 1 Q. Not to your knowledge. Okay.
- 2 Did you have any involvement in formulating
- 3 budgets for projects?
- 4 A. Yes.
- 5 Q. What was your involvement?
- 6 A. I would give the estimated time, manpower,
- 7 duration.
- 8 Q. All right.
- 9 A. I will not solely do this. It would involve
- 10 Adrian and myself.
- 11 Q. Okay. Did you have any involvement in determining
- 12 the numbers for the budget? In other words, like, Okay.
- 13 we're going to pay the manpower this much, and we're going
- 14 to mark it up that much?
- 15 A. No.
- 16 Q. Okay. So you're just, I'm going to need three
- 17 welders, and two boilermakers, and it's going to take five
- 18 days to do the project, and -- and then -- and then
- 19 Mr. Melendez was responsible for doing the number crunching?
- 20 A. That's correct.
- 21 Q. Okay. Do you have any personal knowledge as to
- 22 what any of the markup or profit margins --
- 23 A. No.
- 24 Q. -- are of the company?
- 25 A. No.

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- 1 I don't know how that goes, sir.
- 2 Q. (Mr. Beckstedt) Okay. I'm talking about welding
- 3 procedures.
- 4 Does Petro -- did Petro have its own welding
- 5 procedures?
- 6 A. Yes.
- 7 Q. All right. Was Petro aware of whether or not IPPOS
- 8 was required to follow Vitol welding procedures and
- 9 specifications for the work done at the propane facilities?
- 10 A. Everything was asked up front. This was not asked
- 11 of us with regard to welding certification, I understand.
- 12 Q. Okay. So let's --
- 13 MS. ROHN: Listen to his question.
- 14 Q. (Mr. Beckstedt) I'm not -- we're leaving welding
- 15 certification now. We're moving to a different topic.
- 16 A. Um-hum.
- 17 Q. Welding procedures.
- 18 A. Right.
- 19 Q. Materials --
- 20 A. Right.
- 21 Q. -- that are required. What needs to be done with
- 22 respect to welding.
- 23 Petro has its own welding procedures,
- 24 correct?
- 25 A. That's correct.

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- 1 Q. Do you ever -- through your job duties and
- 2 responsibilities for Petro during the period of the IPPOS
- 3 contract, did you ever have to go in and do any work on any
- 4 of the accounting software, like QuickBooks or anything?
- 5 A. No.
- 6 Q. Okay.
- 7 (Respite.)
- 8 All right. One last topic area I want to
- 9 talk about. I think I'll be done.
- 10 There came a time, if I understand correctly,
- 11 in March of 2021, when Canning questioned Petro with regard
- 12 to welding procedures, do you recall that?
- 13 A. Yes.
- 14 Q. And what do you remember about that?
- 15 A. He asked --
- 16 MS. ROHN: Objection. Overly broad. You can
- 17 answer.
- 18 A. My understanding of this, right?
- 19 Any company that goes to work for IPPOS,
- 20 HOVENSA, any company that is doing welding, you present your
- 21 welding procedures. And then the client would ask for what
- 22 they need at that time. Not three years later. Not, you
- 23 know, three months later, immediately that comes along with
- 24 it. So if I did 25 welds, or 125 welds, and you're going to
- 25 come three years later and ask for a welding certification,

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- 1 Q. And its own policies on welding, right?
- 2 A. Yes.
- 3 Q. Are you familiar with, or were you familiar with,
- 4 at the time that you were doing work for IPPOS, that there
- 5 were Vitol welding procedures that were required for the
- 6 work at the WAPA facility?
- 7 A. None was presented, and none was given to us, so I
- 8 was not aware of it.
- 9 Q. So IPPOS --
- 10 A. No.
- 11 Q. -- never conveyed those procedures?
- 12 A. No.
- 13 Q. Okay. Do you -- do you have any knowledge
- 14 regarding an attempt by IPPOS in September of 2020 to work
- 15 directly with Petro and to remove Canning from the equation?
- 16 A. Not to my knowledge.
- 17 Q. Okay. Do you have any information or knowledge
- 18 relating to Petro being accused of stealing bid information
- 19 from Traeger Brothers related to the 1-inch vent line
- 20 project?
- 21 A. That was shared by Dave Tillman.
- 22 Q. So you have information?
- 23 A. I don't have any information, no.
- 24 Q. Okay. Were you involved in it in any way?
- 25 A. No.

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1 Q. So this was -- what you know about it, you  
2 received from, who, Mr. Melendez?

3 A. Yes.

4 Q. No personal knowledge yourself?

5 A. No.

6 Q. No interaction with Traeger Brothers yourself?

7 A. No.

8 May I?

9 MS. ROHN: Go ahead. He's already -- he's  
10 already in so much trouble that he can't help himself.

11 A. I'm going to order material. Let's say 1-inch  
12 material from Traeger Brothers. You're going to order  
13 1-inch material from Traeger Brother. The same amount of  
14 material, the cost is going to be the same to you, the same  
15 cost to me. So I don't understand if they're saying we're  
16 stealing or inside trading information. I -- I missed that  
17 totally.

18 Q. (Mr. Beckstedt) All right. But the bottom line  
19 is, you didn't have any personal --

20 A. No.

21 Q. -- involvement --

22 MS. ROHN: Let him finish his question.

23 Q. (Mr. Beckstedt) You didn't have any personal  
24 involvement in -- in that bidding?

25 A. No.

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1 out directly and instruct the welders. He would take a  
2 measurement. Weld here. Weld here. That was it. The guys  
3 would weld what he wanted to do. Measure it off, the other  
4 part wouldn't fit. They'd have to cut it back out.

5 Initially, this whole project we gave him  
6 time for each one, and Andrew Canning said we're crazy. It  
7 took about two days for each one. According to Andrew  
8 Canning, it's a puzzle that you're supposed to put together  
9 within four hours. Very impossible.

10 Q. So you're saying that Mr. Nagle would come out and  
11 tell your people where to cut? Is that what you're saying?

12 A. Mr. Nagle, he designed it. He went out to the  
13 factory and looked at it. He came back with drawings, and  
14 he's the one supposed to oversee this job with Mr. Canning.

15 The guys would continue doing what they're  
16 doing. We did a couple of them without him. But when  
17 Nagle's in sight, Guys, let me take a measurement. You look  
18 off here. Okay. He'll put it in. Guys will clamp it.  
19 Weld it. Boom. Measure it up. Two inches off; other part  
20 is three inches off. Cannot fit together. Why did we not  
21 catch it?

22 Nagle is the one who design it, and  
23 instructing the guys, interfering with their work, and  
24 Canning's after us, You guys are taking too long.

25 Q. Is this what -- was it this type of work that led

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1 MR. BECKSTEDT: Okay. All right. So what  
2 I'd like to do, at this point, is pass the witness. I might  
3 reserve a right to ask a couple of other questions after the  
4 other lawyers go. I don't think I have anything more, but  
5 that's where I'm at right now.

6 MS. ROHN: Okay. Well, it's noon. So how  
7 about if this is a good time to take a break?

8 MR. BECKSTEDT: Simone, Andy, are you good  
9 with that?

10 MS. FRANCIS: Yeah. That's fine.

11 MR. SIMPSON: Yes.

12 (Lunch recess taken.)

13 Q. (Mr. Beckstedt) All right. Mr. Persuad, I have a  
14 few more questions. I was looking over my notes.

15 First of all, you had testified earlier that  
16 Mr. Nagle -- and I think this was in respect to the RIO  
17 panels, had made some mistakes with respect to the design,  
18 and that you were, I guess, chastised by Mr. Canning for not  
19 catching the mistakes and following Mr. Nagle's design; is  
20 that correct?

21 A. That's correct.

22 Q. Okay. And just what were the mistakes that  
23 Mr. Nagle made that -- that Mr. Canning thought you should  
24 have caught?

25 A. Well, not thought we should've caught it. Went

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1 to the allegations or the remarks about not being able to  
2 use a tape measure?

3 A. Yes.

4 Q. Okay. And you said that Mr. Canning interacted  
5 with Mr. Nagle differently than he interacted with the Petro  
6 employees, right?

7 A. Yes.

8 Q. Can you just give me examples of how you observed  
9 Mr. Canning interacting differently with Mr. Nagle?

10 A. That same example I just gave you. He wouldn't  
11 have said anything to Nagle, but he would come and chastise  
12 our employee for not being able to measure.

13 Q. Got it.

14 You also said that Andrew Canning accused  
15 Petro of forgery and robbing the company?

16 A. Yes.

17 Q. All right. What were the -- what were the  
18 accusations of forgery?

19 A. Not so much forgery, but robbing the company.

20 Q. Okay.

21 A. I remember on several occasion, myself and Adrian,  
22 we worked in the same trailer when we were doing the  
23 designing and building for Aggreko. And he came back, and  
24 said, You guys are robbing the company. I'm going to report  
25 you to the highest. Nothing ever came about it. He never

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1 brought anything, but he was very much in a rage when he  
2 said that.

3 Q. And when he said, "robbing the company," which  
4 company was he referring to?

5 A. IPOS.

6 Q. Okay. How does the Aggreko work fit in there?

7 A. Well, Andrew Canning worked on the IPOS side. And  
8 Aggreko is something that they were going to sell propane  
9 to. So he was the lead designer and the liaison between  
10 IPOS and Aggreko.

11 Q. So the remarks that you're talking about with  
12 respect to "robbing the company," related -- did not relate  
13 to work that Petro was doing under the IPOS maintenance  
14 contract?

15 A. Yes. There was work, because they had worked for  
16 the same time for the -- Aggreko. You had to do certain  
17 modification on the IPOS side.

18 Q. Got it. Okay.

19 You -- if I follow correctly, you had said --  
20 you had testified that when the issue of providing welding  
21 certificates came up, that was for the 3-inch vent line to  
22 atmosphere?

23 A. Yes.

24 Q. And if I follow your testimony earlier correctly,  
25 this had been the first time that you were aware that

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1 pulled, right?

2 A. Yes.

3 Q. Okay. But there were still concerns about getting  
4 the documentation, right? The qualifications and other  
5 records?

6 A. I think that's correct, yes.

7 Q. Okay. And how long did the vent line project  
8 take?

9 A. My guesstimate, I would say three months. Two  
10 months.

11 Q. Okay. And at no time had -- before the project  
12 started, nobody had told you that they were going to need  
13 the welding certifications?

14 A. No.

15 Q. Okay. I'm going to mark -- who told you that they  
16 needed -- that you needed the welding certifications? Who  
17 actually told you?

18 MS. ROHN: So he's not -- he is not IPOS. I  
19 mean, he's not Petro. You keep saying, who told you? So  
20 you mean him, personally, because he is not Petro.

21 MR. BECKSTEDT: Yes. That is what I mean.

22 MS. ROHN: Okay.

23 Q. (Mr. Beckstedt) who told you, Chad Persuad, that  
24 they needed the welding certifications?

25 A. No one told me directly.

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1 Mr. Canning had asked for these qualifications, right?

2 A. That is correct.

3 Q. And if I follow further, you're saying that you  
4 had done lots of work on arguably more dangerous lines like  
5 propane lines and whatnot that actually have substance,  
6 hazardous substance in them, and you had never been asked  
7 for the qualifications for that work, right?

8 A. That is correct.

9 Q. Okay. And to your knowledge, prior -- when did  
10 the 3-inch vent line project take place?

11 A. Right before -- I can't give you a date, but right  
12 before our contract was pulled.

13 Q. Okay. So would it be fair to say that sometime in  
14 the late -- or in spring or early summer of '21? Your  
15 contract was pulled, when, July of '21, I believe?

16 MS. ROHN: If you don't know, say you don't  
17 know.

18 A. No.

19 MS. ROHN: He's not going to guess.

20 Q. (Mr. Beckstedt) Do you recall the year 2021?

21 A. I don't know.

22 Q. All right.

23 A. Honestly.

24 Q. Okay. The vent -- so this all -- the vent line  
25 project had been completed by the time the contract was

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1 Q. Nobody?

2 A. No. Adrian. It was Adrian.

3 Q. Adrian told you?

4 A. Yeah.

5 Q. And he told you after the project was completed?

6 A. Whenever Andrew Canning send that e-mail out, I  
7 guess, that's when it was.

8 Q. Okay. And you don't remember that date?

9 A. Don't remember.

10 Q. Okay. Fair enough. I won't use that exhibit.

11 I want to ask you a couple questions about  
12 the timesheets.

13 You testified that, to your knowledge, all of  
14 the timesheets that were completed for the projects that you  
15 were involved in, they were accurate, correct, for the  
16 employees at Petro?

17 A. To my knowledge.

18 Q. Okay. You said that some of the discrepancies  
19 with respect to the logbooks that were at the facility would  
20 be because of employees had to go outside the facility to do  
21 part of their job, like get materials and things?

22 A. That's correct.

23 Q. Okay. Are you familiar with concerns that  
24 Mr. Canning had that employees checked in hours later, where  
25 their timesheets said they were working in the morning?

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1 A. Not to my knowledge.

2 Q. Okay. Do you have knowledge of timesheets that  
3 were changed, or where time had been entered after  
4 Mr. Canning had received the timesheets?

5 A. Yes.

6 Q. What knowledge do you have of that?

7 A. In St. Thomas, one particular job. And we brought  
8 it to Andrew Canning -- in jobs that Andrew Canning, we  
9 would have -- here's a timesheet. Review it and sign off on  
10 it.

11 There was one guy that was not added to the  
12 timesheet, and the following morning we brought it to Andrew  
13 Canning, brought to his attention. We added somebody here,  
14 and he was aware of it.

15 MS. ROHN: There's an e-mail about that.

16 MR. BECKSTEDT: Right.

17 Q. (Mr. Beckstedt) Okay. So let's talk about that  
18 e-mail. I will mark this as -- this was marked as Exhibit 7  
19 to the Melendez deposition. I'm going to mark it as --

20 MS. ROHN: Oh, why don't we keep the numbers  
21 the same, so it just --

22 MR. BECKSTEDT: Can we go off the record for  
23 one second?

24 (Discussion off the record.)

25 Q. (Mr. Beckstedt) All right. So I'm going to show

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107

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1 I'm going to read into the record, and if anybody thinks I'm  
2 misconstruing or representing what this document says,  
3 they'll object, and we can deal with it.

4 But this is an e-mail from Andrew Canning on  
5 January 21st, 2021 at 3:47:47 p.m. to Santhia Rodriguez,  
6 David Smith, Coury Hodge, Cyla Gooding, and copied on it are  
7 a number of people, including Adrian Melendez and Chad  
8 Persuad. So presumably you received a copy of this e-mail.  
9 It's very long. I'm not going to read everything. But it's  
10 a follow-up under the subject: Updated AR.

11 And Andrew says, "Santhia, Thank you for the  
12 reply in organising the timesheets in question."

13 And then he has different headings. And it  
14 talks about Authorized Timesheets, Private Jet Charter and  
15 Timing, welder hours for December 11th, 2020, and Levels of  
16 PIS Management Changed, okay? Those are the headings under  
17 the e-mail.

18 Do you have any recollection of this e-mail?

19 A. Not the e-mail. We discussed it with Adrian.

20 Q. Okay. But you have a recollection of these topics  
21 being discussed?

22 A. Yes.

23 Q. In this e-mail, with respect to the timesheets,  
24 "It is clear that two of the timesheets have been changed  
25 since signing which under any circumstances is an

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1 the witness what we previously marked as Melendez Exhibit  
2 Number 7.

3 A. Sorry, guys. I didn't walk with my glasses. I  
4 didn't know I'd have to read some stuff.

5 Q. So you can't read it?

6 A. Not from here, no.

7 MR. BECKSTEDT: All right. Does anyone have  
8 any reading glasses?

9 MS. ROHN: Mine wouldn't look very good on  
10 him.

11 MR. BECKSTEDT: Just for reading. We don't  
12 have video.

13 MS. ROHN: No, it will stretch out my new  
14 glasses. I like my new glasses.

15 THE WITNESS: I'm sorry, guys. I didn't know  
16 I needed them.

17 MR. BECKSTEDT: Do you mind, for the future  
18 depositions of the people that you bring, that if they need  
19 reading glasses, that you instruct them to bring them?

20 MS. ROHN: I had no idea that somebody who  
21 needed reading glasses wouldn't bring them with them.

22 THE WITNESS: I didn't know I had to read  
23 anything. Sorry. This is my first, ever, lawyer  
24 confrontation.

25 Q. (Mr. Beckstedt) So, in order to push through this,

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108

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1 unacceptable practice, however in the two cases presented  
2 (the 11th and 12th of December 2021) I am satisfied that  
3 there was no fraudulent intent related to the changes just  
4 an oversight of the specialist welder who's name, site hours  
5 and cumulative -- cumulative -- cumulative," excuse me.

6 MS. ROHN: Easy for you to say.

7 Q. (Mr. Beckstedt) -- "time has been entered after I  
8 signed the timesheets."

9 Okay. That's the first sentence. Does that  
10 ring a bell?

11 A. Yes.

12 Q. Okay. Is that what you were just talking about?

13 A. Yes.

14 Q. Okay. And then Andrew says, "Clearly this  
15 oversight should have been recognised and brought to my  
16 attention and no amendments made on the signed and  
17 authorized timesheets. Going forward," and then he talks  
18 about a procedure.

19 A. May I?

20 MS. ROHN: Now, sir, I'm going to have to  
21 take you outside.

22 A. All right. Go ahead.

23 MS. ROHN: Let him finish his question, then  
24 answer his question.

25 Q. (Mr. Beckstedt) All right. So that last sentence,

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1 where Mr. Canning says, the "oversight should have been  
2 recognised and brought to my attention," do you agree or  
3 disagree that this was not brought to his attention?

4 A. It was brought to his attention.

5 Q. Okay. And you're saying that you brought it to  
6 his attention the day after?

7 A. The job finished at 1 o'clock in the morning.  
8 Andrew left before we did. The timesheet was brought to his  
9 attention, 7 o'clock the next day.

10 Q. Meaning, the change of the timesheet?

11 A. Yes.

12 Q. Okay. And so who brought it to Mr. Canning's  
13 attention?

14 A. I brought it to him.

15 Q. You, personally?

16 A. Brought the timesheet. Here, Andrew, I added this  
17 person to it.

18 Q. Okay. All right. I have -- also have here, which  
19 I'm going to show you for the record, but you can -- I  
20 understand you can't read this. It is Melendez Number 8.

21 You can't read this, correct?

22 A. No.

23 Q. Okay.

24 A. I'm trying.

25 Q. Don't even try. It's bad quality to begin with.

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1 There's one -- there is an e-mail in here,  
2 which you are copied on, which is Thursday, January 21st,  
3 2021 at 11:51 a.m. from Mr. Melendez, Jr. to Merlin  
4 Figueira, with a copy of various people, including yourself,  
5 and it's regarding the subject, RIO Shades, okay?

6 And there had been some concerns brought up  
7 about various different things. I'll just tell them to see  
8 if it refreshes your recollection.

9 Quality of welds on the panel by the boiler  
10 room. Break times running long, including leaving early.  
11 work not progressing fast enough.

12 Do you have a recollection of those e-mail  
13 communications?

14 A. Yes.

15 Q. Okay. And Mr. Melendez writes back with respect  
16 to break times running long, including leaving early, "No  
17 excuse. The guys will improve on this," okay?

18 A. Yes.

19 Q. Do you recall Mr. Melendez saying that?

20 A. Yes.

21 Q. Do you agree that there was no excuse for the  
22 break times running long and the guys leaving early?

23 A. There's no excuse.

24 The guys have three breaks. Two breaks. I'm  
25 sorry. One at 9 o'clock to 9:15. Fifteen minutes. And

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1 then they have one at lunchtime. They would omit the  
2 9 o'clock break, 9:15, and just add a longer lunch. I'm  
3 aware of that.

4 Q. Okay.

5 A. I explain this to Mr. Canning.

6 Q. Okay. So when -- when Mr. Melendez says, "There's  
7 no excuse. The guys will improve on this," are you agreeing  
8 or disputing that the Petro employees were taking longer  
9 breaks than they were allowed?

10 A. Like I said, the lunchtime pushed over to 9:45  
11 because they omitted a break. The 15-minute break at  
12 9 o'clock.

13 Q. Okay. So your testimony is that they took breaks  
14 in the total amount of time that was allowed; they just  
15 didn't do it at the time that they were supposed to?

16 A. Yes.

17 Q. But they didn't go over?

18 A. I don't think they go over.

19 Q. And you say you don't think -- okay.

20 So you would disagree that the break times  
21 were running long?

22 A. Yeah.

23 Q. They were just taken at different times?

24 A. That's correct.

25 Q. Okay. Now, what about leaving early? Did your

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1 employees leave early before they should?

2 A. Work for us, and when I'm on site, stops at 3:15.  
3 Pack away their tools. Clean up the area at 3:15, which  
4 extends to 4 o'clock. Employee only gets paid till 3:30, so  
5 I would disagree with that.

6 Q. So you have no personal knowledge of any of your  
7 employees leaving early?

8 A. No.

9 Q. All right. So basically when Mr. Melendez said,  
10 "No excuse. The guys will improve on this," which you would  
11 agree with me, is an admission that the break times were  
12 running long and people were leaving early, right?

13 A. Yes.

14 Q. You would say that he admitted to something that  
15 wasn't actually happening?

16 A. I am out in the field; he's in the office.

17 Q. Got it. Okay.

18 So the Petro employees never took long breaks  
19 and they never left early?

20 A. In my knowledge, no.

21 Q. Okay.

22 A. Before you go further, one more thing you said  
23 there.

24 Shoddy welds. This is a structural weld.

25 Not --

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1 Q. I didn't say shoddy.  
 2 A. What did you say?  
 3 Q. I said, "Quality of a few welds on the panel by  
 4 the boiler room."  
 5 A. This is a structure.  
 6 Q. Okay.  
 7 A. Anybody who's starting out to weld, this is how  
 8 they learn to weld. These are qualified welders welding all  
 9 Andrew Canning piping. Pressure vessels. So for him to say  
 10 something like this, I disagree highly with that.  
 11 Q. Got it.  
 12 Are you familiar with the company, Versa?  
 13 A. Yes.  
 14 Q. Who's Versa?  
 15 A. Inspection company.  
 16 Q. All right. And they inspect welds, right?  
 17 A. Yes.  
 18 Q. All right. They're the ones that did the  
 19 inspections that you were talking about earlier, where  
 20 they -- there could be a red flag; is that right?  
 21 A. Um-hum.  
 22 Q. Okay. I'd like to just show you a couple of these  
 23 reports and ask you a few questions. But going to be hard  
 24 without your reading glasses, but I'm going to try it, all  
 25 right?

Susan C. Nissman, RPR-RMR  
 (340) 773-8161

115

CHETRAM PERSAUD -- DIRECT

1 Q. Okay. Do you see on the second page, Bates number  
 2 on the bottom, 240, the big black thick?  
 3 A. Yes.  
 4 Q. Up at the top, it says, "Client: LimeTree Bay  
 5 Refinery/IPOS."  
 6 Do you see that?  
 7 A. Yes.  
 8 Q. All right. And it's just confusing me whether or  
 9 not these are welds that they were examining that were out  
 10 at the Limetree Bay refinery, or if they were actually at  
 11 the propane facility at WAPA?  
 12 A. So, initially, these guys, they work out of  
 13 Limetree Bay. Andrew Canning asked us to get a welding  
 14 company with x-ray, which is nearly impossible without  
 15 federal authorization to move the radiation that you need to  
 16 have this.  
 17 We jumped through hoops to go to Limetree and  
 18 ask them to do this.  
 19 They're contracted to Limetree Bay. Moving  
 20 the radiation has to go back to one source, and one place  
 21 only. And I would assume that's why they have Limetree Bay.  
 22 Q. Okay.  
 23 A. Because you have to go through so much federal  
 24 mandate, just to move the radiation.  
 25 Q. So on page -- on the third page of this document,

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 (340) 773-8161

CHETRAM PERSAUD -- DIRECT

1 MS. ROHN: I may be able to save the day. I  
 2 do have another pair of reading glasses.  
 3 A. You're stylish.  
 4 MS. ROHN: You're going to owe me.  
 5 Q. (Mr. Beckstedt) All right. So I am marking  
 6 Persaud Number 16. Tell me if you can read that.  
 7 (Deposition Exhibit Persaud No. 17 was  
 8 marked for identification.)  
 9 And for the people that are attending  
 10 remotely, this is the Versa document I circulated, dated  
 11 April 3, 2021, starting with PIS 239 Bates number.  
 12 MS. ROHN: This is Persaud 18?  
 13 MR. BECKSTEDT: Oh, did I write the wrong  
 14 number? You're right. It's 17.  
 15 MS. ROHN: Seventeen.  
 16 MR. BECKSTEDT: My apologies. I can't count.  
 17 Q. (Mr. Beckstedt) Are you able to read them with  
 18 those glasses?  
 19 A. Yes. It's there someplace.  
 20 Q. All right. So, first of all, Versa has put down,  
 21 I guess, the client, Limetree Bay Refinery/IPOS.  
 22 Is there something on this document that  
 23 tells you where -- where this work was? Where, that they're  
 24 imaging? Where these welds are located?  
 25 A. I would say St. Croix IPOS.

Susan C. Nissman, RPR-RMR  
 (340) 773-8161

116

CHETRAM PERSAUD -- DIRECT

1 under 241, where it lists the components, and it says, "IPOS  
 2 PURGE DRAIN LINE." Do you see that?  
 3 A. Um-hum. Yes.  
 4 Q. So this is out at the -- out at the WAPA facility,  
 5 correct?  
 6 A. Yes.  
 7 Q. Okay. So now I just am turning the pages.  
 8 A. Um-hum.  
 9 Q. And is there a weld on here that has a red flag,  
 10 as you described in your testimony earlier?  
 11 A. In regards to this, this would be interpreted, and  
 12 reported back to the client. I'm not qualified to read  
 13 this. I am not a welding inspector.  
 14 Q. Okay. So let me understand.  
 15 You told me that if your welders are  
 16 continually doing welding work, they don't need to be  
 17 recertified, right?  
 18 A. That's correct.  
 19 Q. And the way that Petro maintains knowledge that  
 20 their welders are qualified to do welds is by monitoring the  
 21 x-ray, and is it phase array?  
 22 A. Yes.  
 23 Q. That was being done, and confirming that your  
 24 welders aren't getting red flags, right?  
 25 A. That's correct.

Susan C. Nissman, RPR-RMR  
 (340) 773-8161

CHETRAM PERSUAD -- DIRECT

1 Q. Is this an example of an x-ray or phase array  
2 report that Petro would review to see if their welders are  
3 getting a red flag?

4 A. So it would be reviewed by the guy who's taking  
5 it. So one technician come out, take these welds. He  
6 doesn't know if they're good or bad. He's going to bring  
7 them back to somebody else to develop it. Read it. Go to  
8 his supervisor. And then we'll have something that comes  
9 out to say yes or no. Weld Number 1 is bad. Number 5 is  
10 bad. But for me to look at this now and tell you this is  
11 good, that is good, I am not qualified to do that, sir.

12 Q. I get that.

13 But ultimately, someone at Petro gets a  
14 report that says this was good or not good, right?

15 A. That's correct.

16 Q. Does that report come in a different format than  
17 what we're seeing here?

18 A. No. It's pretty much same format, and it's marked  
19 up by the -- the inspection company.

20 Q. Can you turn to the last page of this document?

21 A. Sure.

22 Q. All right. I see something on this document  
23 that's in red with an arrow that says, "nonfusion" over the  
24 x-ray.

25 Do you see that?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

119

CHETRAM PERSUAD -- DIRECT

1 it, and say, This is the guy who did it.

2 Q. Okay. Which number on this piece of paper that  
3 we're looking at, where it says -- has the red flag for  
4 non-fusion, signifies the welder who did the weld?

5 A. I'm not a hundred -- I'm not correct. I'm not  
6 sure which one is it --

7 Q. Okay.

8 A. -- honestly.

9 Q. You're one of the quality control guys for Petro,  
10 right? You and Adrian?

11 A. And Adrian -- not Adrian. Javier Vazquez.

12 Q. Okay. And what's Javier Vazquez's title?

13 A. He's our quality control person, along with us.

14 Q. All right. So when I asked you earlier today who  
15 the quality control people were, you didn't mention him?

16 A. No, I did not. I failed to mention that. I  
17 didn't remember at the time.

18 Q. Is there anybody else who does quality control for  
19 Petro?

20 A. Not at this time, no.

21 Q. Okay. But you're one of the people that does it?

22 A. Yes.

23 Q. And within the scope of your duties as a quality  
24 control person for Petro, you have the knowledge and ability  
25 to review these reports to determine whether your welders

Susan C. Nissman, RPR-RMR  
(340) 773-8161

CHETRAM PERSUAD -- DIRECT

1 A. Yes.

2 Q. What -- is that an example of a red flag?

3 A. That's correct.

4 Q. Like you were talking about before?

5 A. Yes.

6 Q. All right. So this is something that would have  
7 been given to Petro, and then you would look at it to see if  
8 there was a red flag, right?

9 A. That's correct.

10 Q. Did you look at this when it came in?

11 A. I looked at this when it came in. Like I said,  
12 it's not for us to determine we're going to go back and look  
13 at weld Number 10. Whatever number is on this one. And  
14 this one has it. Read the inconsistency with the weld, and  
15 make a repair.

16 Q. Who made -- who did this weld?

17 A. Offhand, let me see. I can't say.

18 Q. Is there anything on this x-ray that identifies  
19 your welder who did this?

20 A. There's a number it should be on there.

21 Q. Where?

22 A. It should be on the weld map, not on here.  
23 There's one of these numbers on the end over here, but it  
24 should be on the weld map, also.

25 So I'll go back to the weld map, and look at

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(340) 773-8161

120

CHETRAM PERSUAD -- DIRECT

1 are -- are doing -- are properly welding?

2 A. According to this, alongside with a weld map,  
3 you will determine.

4 Q. Got it.

5 And Petro keeps the weld maps in their  
6 possession?

7 A. Yes.

8 Q. How long do they keep those records?

9 A. I cannot tell you that.

10 Q. Got it.

11 All right. So I apologize. We got a little  
12 off track. But you're telling me that you can't see a  
13 number on this piece of paper that signifies --

14 A. I'm saying it's one of these numbers -- sorry  
15 about that.

16 Q. All right. You were just pointing when you were  
17 told to stop interrupting my question.

18 So there's numbers on the black x-ray up in  
19 the upper right corner, right?

20 A. Um-hum.

21 Q. Is that correct?

22 A. That's correct.

23 Q. All right. And you're saying one of those numbers  
24 identifies a welder?

25 A. Yes.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

CHETRAM PERSUAD -- DIRECT

- 1 Q. Okay. But you're not sure which one of the  
2 numbers identifies the welder?
- 3 A. Without a weld map, I cannot tell you that.
- 4 Q. Okay. And if we looked at a weld map, there would  
5 be some number on the weld map --
- 6 A. Associated with this.
- 7 Q. Okay. And that would somehow tell you which one  
8 of these numbers actually signifies a welder?
- 9 A. That's correct.
- 10 Q. All right. And then where -- does the weld map  
11 have the name of the welder that goes to the number?
- 12 A. It has a name and a stencil.
- 13 Q. What's a stencil?
- 14 A. It's the number that you're looking at right  
15 there. One of these numbers.
- 16 Q. Okay. All right. These numbers have in front of  
17 them -- well, one of them looks like a date. The second one  
18 down looks like it's a date, 4/3/2021, is that a date?
- 19 A. Yeah, that's a date.
- 20 Q. The one above it starts with the FW257 EB.  
21 Do you know what the FW or EB stands for?
- 22 A. No.
- 23 Q. All right. The one below the date starts with the  
24 letter C, and then it's followed by five numbers.  
25 Do you know what the C stands for?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

CHETRAM PERSUAD -- DIRECT

- 1 time? They were welding on stainless steel constantly?
- 2 A. Our business is welding. That's where we make our  
3 most money. We weld stainless steel all the time, yes.
- 4 Q. Okay. What's the longest gap that you have  
5 between -- for each -- for your welders, what's the longest  
6 period of time between welding stainless steel that they  
7 have?
- 8 A. Between the distilleries that we have locally  
9 here, which is primarily stainless steel.
- 10 Q. Like Diageo and Cruzan Rum?
- 11 A. Yes. It's all stainless.
- 12 Q. And the same welders are out there welding?
- 13 A. Yes.
- 14 Q. Got it.  
15 So with the distilleries, what -- how --  
16 what's the most amount of time that you believe your welders  
17 go without welding stainless steel?
- 18 A. Christmas break. They take vacation.
- 19 MR. BECKSTEDT: Okay. All right. I think  
20 that exhausts my questions.  
21 Do you need a break, Simone or Andy?
- 22 MS. FRANCIS: No, I can start.
- 23 MR. SIMPSON: I do not.
- 24 MS. FRANCIS: But before we start,  
25 Mr. Melendez, are you okay -- I'm sorry. Mr. Persuad, are

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(340) 773-8161

CHETRAM PERSUAD -- DIRECT

- 1 A. No.
- 2 Q. And the last one starts with W.  
3 Do you know what that stands for?
- 4 A. No.
- 5 Q. Okay. Do you know what a non-fusion is?
- 6 A. Yes.
- 7 Q. What's that?
- 8 A. It's not bonded together.
- 9 Q. Does that typically mean something that has to be  
10 redone?
- 11 A. Yes.
- 12 Q. Do you know what kind of weld that was that we  
13 just looked at that had the non-fusion?
- 14 A. Well, if it's the 3-inch line we're talking about,  
15 I would say it would be on that stainless steel part that we  
16 welded. That's all I could refer to.
- 17 Q. Well, according to the second page that we looked  
18 at, these are related to the IPOS purge drain line.  
19 Is that different?
- 20 A. Yes.
- 21 Q. So based on that, do you know what kind of welds  
22 these are?
- 23 A. Same stainless steel.
- 24 Q. Same stainless steel.  
25 And your guys weld on stainless steel at that

Susan C. Nissman, RPR-RMR  
(340) 773-8161

CHETRAM PERSUAD -- CROSS

- 1 you okay to continue?
- 2 THE WITNESS: Sure.
- 3 CROSS-EXAMINATION
- 4 BY MS. FRANCIS:
- 5 Q. Okay. Good afternoon, Mr. Persuad. My name is  
6 Simone Francis, and I represent IPOS.  
7 Are you able to hear me?
- 8 A. Clearly.
- 9 Q. Excellent.  
10 versa. You were just shown some report by  
11 versa. Would you consider or regard versa to be qualified  
12 to do the sort of testing that is represented in those  
13 reports?
- 14 A. They're the number-one North American company that  
15 does inspection. Yes, they're more than qualified.
- 16 Q. And earlier, you were shown Exhibit 8, Melendez 8.  
17 That's the e-mail that speaks to the break times running  
18 long, including leaving early.  
19 If the employees did not take breaks at their  
20 scheduled time, would you be the person responsible for  
21 monitoring or ensuring that the break times are taken at the  
22 scheduled time, or who has responsibility for that?
- 23 A. Their supervisor.
- 24 Q. I'm sorry?
- 25 A. Their supervisor.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

1 Q. Okay. And who would that have been in January of  
2 2021? Is that -- I believe you mentioned a name earlier,  
3 but I just want to make sure.

4 A. Elias Rivera.

5 Q. And was there a separate supervisor on St. Thomas,  
6 did you say?

7 A. Yes.

8 Q. Okay. And that individual's name?

9 A. For maintenance, Johnny Alfonsaca.

10 Q. And do you have personal knowledge whether either  
11 Mr. Rivera or Mr. Alfonsaca would take measures to ensure  
12 that Petro employees took both a rest break and then a  
13 separate lunch break or meal break?

14 A. Yes.

15 Q. And what is your knowledge in that regard?

16 A. Company's standard, it would be 9 o'clock to 9:15,  
17 is the morning break. The lunch break, 12 o'clock to 12:30.

18 If the job they're doing, they would speak to  
19 an IPOS representative. We would work -- 'cause the start,  
20 we start at 7:30. To stop two hours after setting up and  
21 all that stuff, you're just wasting time. So it was set up  
22 we work through the morning without that break, and then  
23 take a longer lunch break.

24 Q. In response to Attorney Beckstedt's questions, you  
25 had given some testimony about the interactions between

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(340) 773-8161

1 A. NO.

2 Q. Did you speak to anyone in preparation for your  
3 deposition?

4 A. Attorney Lee Rohn.

5 Q. And when was that?

6 A. Friday.

7 Q. And by "Friday," are you referring to Friday, May  
8 19th?

9 A. I'm sorry. It was Saturday. Not Friday,  
10 Saturday.

11 Q. Okay. This past Saturday, May 20th, sir?

12 A. Yes.

13 Q. Was anyone else present for your conversation?

14 A. Myself, Adrian Melendez, Ms. Lee Rohn.

15 Q. And was the meeting on Saturday, May 20th, the  
16 only meeting that you had in preparation for your  
17 deposition?

18 A. Yes, ma'am.

19 Q. Okay. How long did you meet?

20 A. Fifteen minutes. Twenty minutes.

21 Q. Was that in person or by telephone or --

22 A. In person.

23 Q. -- video?

24 with respect to e-mail communications  
25 concerning the work that was being done, such as the e-mails

Susan C. Nissman, RPR-RMR  
(340) 773-8161

1 Mr. Canning and Mr. Nagle.

2 Do you recall that?

3 A. Yes.

4 Q. I take it -- would it be fair to say that  
5 Mr. Canning and Mr. Nagle may have had interactions  
6 concerning work matters that you were not a party to,  
7 correct?

8 A. Yes.

9 Q. I'm going to go back to some other issues.

10 During the lunch break, did you have any  
11 discussion with anyone about any testimony that you gave  
12 during the first part of the deposition?

13 A. No.

14 Q. Okay. During the lunch break, did you have any  
15 discussion with anyone about any testimony that you might  
16 give when the deposition resumed this testimony?

17 A. No.

18 Q. And apart from the fact that you had not mentioned  
19 Mr. Javier Vazquez earlier in your deposition, is there any  
20 other testimony that you gave in response to questions this  
21 morning that you now realize contain some omission or  
22 misstatement?

23 A. No.

24 Q. Did you review any documents in preparation for  
25 your deposition?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

1 that are in Exhibit 7 and 8, what was your normal habit or  
2 practice?

3 A. Can you refresh what 7 and 8 is, please?

4 Q. Sure.

5 Exhibit 7 would have been one of the exhibits  
6 you were shown while you didn't have the reading glasses.  
7 And that's the e-mail from Mr. Canning that speaks to the  
8 alterations of authorized timesheets, use of private jet  
9 charter and timing, welder hours. And Attorney Beckstedt  
10 read to you the portion of that e-mail that stated that  
11 Mr. Canning had determined that there was no fraudulent  
12 intent with respect to the changes, just an oversight.

13 And so my specific question was, did you tend  
14 to read e-mails during the business day? Did you read them  
15 at the end of the day? Did you typically respond by e-mail?  
16 Or leave it to Mr. Melendez to communicate by e-mail  
17 concerning matters related to the work that was being done  
18 at the propane facility?

19 MS. ROHN: Objection. Compound question.  
20 You can answer, if you can.

21 A. Ma'am, my poor eyesight, Adrian reads most of the  
22 e-mails. I do most of the work in the field.

23 Q. (Ms. Francis) And tell me exactly the nature of  
24 your vision limitations?

25 A. I can't see close. I can see far.

Susan C. Nissman, RPR-RMR  
(340) 773-8161



- 1 Q. And was that the case during 2019, 2020, 2021?
- 2 A. Yes, ma'am.
- 3 Q. Did you attend high school in New York?
- 4 A. Yes.
- 5 Q. Okay. And did you graduate from high school?
- 6 A. Yes.
- 7 Q. Following high school, did you undergo any other
- 8 formal education?
- 9 A. Two years of technical college.
- 10 Q. Where was that?
- 11 A. New York.
- 12 Q. I'm sorry. I did not hear you.
- 13 MS. ROHN: New York.
- 14 Q. (MS. FRANCIS) What institution?
- 15 A. New York Technical College.
- 16 Q. And did you receive a degree or a certificate at
- 17 the end of that two-year period?
- 18 A. No, ma'am. I was one -- one point away from
- 19 graduating and start working. I never followed that.
- 20 Q. What were you studying during the two-year period
- 21 that you attended New York Technical College?
- 22 A. Machine tool technology.
- 23 Q. Have you, at any point since interrupting those
- 24 studies, attempted to resume formal education at any
- 25 institution, either in person or online?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

131

CHETRAM PERSUAD -- CROSS

- 1 2021?
- 2 A. Yes.
- 3 Q. Is your -- are your wages from Petro dependent
- 4 upon Petro being paid by clients for time that you spent
- 5 working?
- 6 A. Yes, ma'am.
- 7 Q. Okay. And can you explain how that works?
- 8 A. If Petro don't get paid, I don't get paid, based
- 9 upon the work that we're doing. We're a small local
- 10 company, and we depend. We don't have no major overheads.
- 11 And if somebody doesn't pay for three months, we're pretty
- 12 much going under.
- 13 Q. Sir, have there been occasions when Petro has
- 14 withheld salary or wages from you because of a claim that it
- 15 had insufficient funds to pay your -- pay you for work you
- 16 had performed?
- 17 A. Yes, ma'am.
- 18 Q. Okay. Tell me about that.
- 19 A. Again, directly from IP0S, because I'm a
- 20 supervisor or manager, I would say most of our employees,
- 21 they need to get paid. They do the work. And basically, it
- 22 would be a discussion between myself and Adrian Melendez and
- 23 our office manager. I miss this week, next week, and I'll
- 24 get compensated whenever we can.
- 25 Q. So even though you're not an owner of the

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(340) 773-8161

- 1 A. I went to a couple classes. Not institution.
- 2 Informal setting.
- 3 Q. Could you explain what you mean by that?
- 4 A. Went to training in regards to developing better
- 5 work habits. Training in applications that we have to work
- 6 on a pipe. Courses of that matter.
- 7 Q. Were those trainings or course work during your
- 8 employment with Petro or before?
- 9 A. Before.
- 10 Q. And with what companies?
- 11 A. Turner, Jacob, and HOVENSA.
- 12 Q. Did you go directly from New York to St. Croix?
- 13 A. Yes, ma'am.
- 14 Q. And what kind of work did you do in New York after
- 15 you ended your studies at New York Technical College?
- 16 A. Worked in a machine shop at New York Transit
- 17 Authority. Worked at Indian Point, a nuclear power plant
- 18 for Con Edison, and their machine shop in Bronx, New York.
- 19 Q. Were those the only two entities that you worked
- 20 for in New York before moving to St. Croix?
- 21 A. Yes, ma'am.
- 22 Q. In your current position with Petro, are you paid
- 23 hourly or are you a salaried employee?
- 24 A. Hourly.
- 25 Q. And was that also the case in 2019, 2020, and

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(340) 773-8161

132

CHETRAM PERSUAD -- CROSS

- 1 business, your wages are dependent upon the -- Petro
- 2 receiving money or not receiving money from its clients?
- 3 A. That's correct.
- 4 Q. Are you paid any bonuses by Petro?
- 5 A. No.
- 6 Q. Okay. And have you -- has your salary or your
- 7 hourly rate increased at all between January of 2019 and the
- 8 present?
- 9 A. No.
- 10 Q. When you travel for work, either between
- 11 St. Thomas and St. Croix or elsewhere, does Petro advance
- 12 the travel costs, or do you pay for that out of pocket and
- 13 then seek reimbursement from Petro?
- 14 A. Petro would not give an advance, but they would
- 15 have get the room for the hotel, rental car. And after the
- 16 job is completed, you get reimbursed. That would be the per
- 17 diem.
- 18 Q. And I may have asked an unclear question, so let
- 19 me try again.
- 20 Does the hotel or rental car, are those bills
- 21 going directly to you and being paid by you in the first
- 22 instance, or are they going directly to Petro, and Petro is
- 23 paying them?
- 24 A. Directly to Petro.
- 25 Q. Did I understand your testimony correctly, that at

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(340) 773-8161

1 some point in time, you were on site acting as a liaison  
2 between the Petro employees and Mr. Canning; is that  
3 correct?

4 A. Yes.

5 Q. Okay. And if I understood your testimony  
6 correctly, and I'm not trying to put words in your mouth,  
7 but it sounds like you were frustrated, because Mr. Canning,  
8 at some point, either took the position or appeared to take  
9 the position that Petro should not charge for your work in  
10 overseeing work of Petro employees; is that correct?

11 MS. ROHN: Objection to the form of the  
12 question. It's compound, and it's difficult to follow.

13 Q. (Ms. Francis) Well, Mr. Persuad, if, at any time,  
14 you don't understand a question, please feel free to let me  
15 know, and I will -- I will restate it or rephrase it.

16 A. Okay.

17 Q. Did you understand the question that I asked?

18 A. Please rephrase it.

19 Q. Sure.

20 Did you understand that Andrew Canning was  
21 taking the position that Petro should not charge for your  
22 time on the job, or that Canning was taking the position  
23 that Petro should not charge for the time of other  
24 supervisors?

25 A. Ma'am, Andrew Canning agree verbally for me to

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(340) 773-8161

1 Q. Sure.

2 Do you have -- do you have any criticism of  
3 Mr. Figueira's actions in that regard?

4 A. No.

5 Q. When is the most recent occasion that you've had  
6 any communications with Mr. Figueira?

7 A. I cannot give you a date, but the last week, he  
8 was on St. Croix.

9 Q. And what was your interaction or interactions with  
10 Mr. Figueira on that occasion?

11 A. He thanked us for the work that we did, and he was  
12 taking off. And he wasn't sure if he was taking off the  
13 Wednesday or the Friday. So all he said was thank you for  
14 everything. Appreciate all your hard work, and that was the  
15 end of it.

16 Q. Did you consider yourself to have a good working  
17 relationship with Mr. Figueira?

18 A. A good working relationship, yes, 'cause he  
19 understand the work that was meant to be done.

20 Q. And did I correctly understand you to testify in  
21 response to Attorney Beckstedt's questions that you had no  
22 knowledge of any racist comments or discriminatory comments  
23 against Petro by Merlin Figueira; is that correct?

24 A. That is correct.

25 Q. And did I also understand you to testify in

Susan C. Nissman, RPR-RMR  
(340) 773-8161

1 leave St. Croix to go to St. Thomas and manage this job. He  
2 agree. He wrote it down on his notes, his minutes, that,  
3 yes, I will take the management position and liaison for  
4 this particular job. And after three months, he cannot  
5 recall this.

6 Q. And remind me, again, at what point did  
7 Mr. Canning agree that you would take the management  
8 position?

9 A. Before this job started.

10 Q. And by "this job," which -- which job?

11 A. This would be RIO panel in St. Thomas.

12 Q. Okay. Thank you.

13 Do you have a recollection of how long that  
14 work or project took?

15 A. We were only to do three weeks of work in  
16 St. Thomas. Was scheduled, I think, for a month.  
17 Mr. Canning left the site, and all work came to a complete  
18 halt.

19 Q. And then did it resume at some point in time?

20 A. Not with Mr. Canning. It resumed with Merlin.  
21 There was two more panels to be done, and he called us.  
22 Without Canning being on site, the job was completed.

23 Q. And do you have any criticism of Mr. Figueira  
24 taking that action in calling you to complete the work?

25 A. Ma'am, could you repeat the question, please?

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1 response to Attorney Beckstedt's questions that you have no  
2 knowledge of any racist comments or discriminatory conduct  
3 against Petro, or any Petro employees, by David Smith?

4 A. That's correct.

5 Q. You also mentioned an IP0S employee by the name of  
6 Coury Hodge.

7 Do you have any knowledge of any racist  
8 comments or discriminatory conduct against Petro, or any  
9 Petro employees, by Coury Hodge?

10 A. No.

11 Q. In your role with Petro, did you ever conduct any  
12 performance evaluations for any of the Petro welders?

13 A. Ma'am, not performance. I explained to Mr. Beck  
14 here that pretty much as they weld, that's how they're  
15 qualified.

16 Q. And does Petro do annual or semi-annual job  
17 evaluations of its welders?

18 A. No, ma'am. It's not necessary, once they  
19 continuous welding, and their weld continuous to pass.

20 Q. Do you conduct performance evaluations for any  
21 Petro employees?

22 A. Yes, we do.

23 Q. Okay. You, personally, what Petro employees do  
24 you conduct performance reevaluations of?

25 A. Our boilermaker. Our civil work.

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- 1 Q. I'm sorry. Boilermaker, and who else?
- 2 A. Civil workers. Concrete, rebar, stuff like that.
- 3 Q. Do you have any responsibility for hiring any
- 4 Petro employees?
- 5 A. I evaluate them, not hire them.
- 6 Q. And when you say you "evaluate," do you make
- 7 recommendations about hiring?
- 8 A. Yes.
- 9 Q. And how about firing employees? Do you have any
- 10 responsibility for firing any employees?
- 11 A. Again, madam, I make recommendation, and it's up
- 12 to the office person and Adrian to fire them.
- 13 Q. Have you ever -- well, let me rephrase that.
- 14 Does Petro have any written policies about
- 15 discrimination or harassment?
- 16 A. Yes.
- 17 Q. And where are those contained?
- 18 A. In at the office, and it's passed out to every
- 19 employee upon start date.
- 20 Q. Do you personally do that, or does someone else
- 21 handle that?
- 22 A. Office manager.
- 23 Q. So that would be Ms. Rodriguez?
- 24 A. That's correct.
- 25 Q. Does Petro conduct any training about workplace

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- 1 A. Ma'am, Andrew Canning stated that these Hispanics
- 2 don't know what they're doing. He can't communicate with
- 3 them.
- 4 Q. And my question was, were you personally present
- 5 when Mr. Canning made that statement?
- 6 A. Ma'am, he told it to me.
- 7 Q. Oh, okay.
- 8 And your testimony is that he said that to
- 9 you on more than one occasion?
- 10 A. That is correct.
- 11 Q. Was anyone else present with you when Mr. Canning
- 12 said that on any of these -- the occasions that you recall?
- 13 A. No, ma'am.
- 14 Q. And was that statement a reference to the welders?
- 15 A. Yes.
- 16 Q. And did I understand you correctly that you did
- 17 not directly report to Merlin Figueira or David Smith that
- 18 Andrew Canning had made a statement to the effect of, we
- 19 need to get better personnel than these Hispanics?
- 20 A. No. Never reported it.
- 21 Q. At some point, you testified that Andrew Canning
- 22 made a statement to the effect of some work of Petro was not
- 23 up to code.
- 24 Do you recall that testimony?
- 25 A. Andrew Canning, yes.

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- 1 discrimination or harassment?
- 2 A. Not to my knowledge.
- 3 Q. And if a Petro employee had a complaint about
- 4 discrimination or harassment, to whom would those complaints
- 5 be reported?
- 6 A. Adrian Melendez.
- 7 Q. Has any Petro employee ever reported a complaint
- 8 about harassment or discrimination directly to you?
- 9 A. Not to my knowledge.
- 10 Q. Do you speak Spanish, sir?
- 11 A. No.
- 12 Q. You testified earlier that Mr. Canning allegedly
- 13 said at some point, words to the effect of, he can't
- 14 communicate with them. We need to get -- or you need to get
- 15 better personnel than these Hispanics.
- 16 Do you recall that testimony?
- 17 A. Yes.
- 18 Q. And when did Mr. Canning make that statement?
- 19 A. I cannot give you a date, ma'am, but while we were
- 20 working on site on several occasion.
- 21 Q. And is this something you personally heard on
- 22 several occasions, or was it reported to you by others?
- 23 A. It was reported by Andrew Canning to me.
- 24 Q. Andrew Canning reported to you that he said that
- 25 Petro needs to get better personnel than these Hispanics?

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- 1 Q. And did that occur on one occasion, or more than
- 2 one occasion?
- 3 A. More than one occasion.
- 4 Q. How many?
- 5 A. Ma'am, I can't say. It's more than one. Two,
- 6 three. I really can't say.
- 7 Q. Were those occasions in one-on-one conversations
- 8 between you and Mr. Canning?
- 9 A. Yes.
- 10 Q. So no one else was present?
- 11 A. No.
- 12 Ma'am, in meetings, also, he would say these
- 13 things are not up to code. And when asked of Andrew Canning
- 14 what code, he would not have known what code.
- 15 And then the general manager, Merlin or David
- 16 Smith, at the time, would ask, Can you tell me what code
- 17 he's talking about?
- 18 Q. Would ask you --
- 19 A. Yes.
- 20 Q. -- is that correct?
- 21 A. Myself or Adrian Melendez, whoever is on site,
- 22 yes.
- 23 Q. And at that point, would you or Mr. Melendez
- 24 respond?
- 25 A. We would not respond. We'll go get him the code.

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1 Bring it to him. Here it is. And he'll go -- he will take  
2 that back to Andrew Canning.

3 Q. And I believe you said -- you testified something  
4 to the effect of Merlin would look up the code and determine  
5 that Mr. Canning was wrong.

6 Did I understand you correctly?

7 A. Ma'am, just like we have a QC, IPOS, Vito1, they  
8 have a QC department in Holland. They would send these  
9 codes out to them, and the QC department will come back and  
10 say, Hey, this is correct what these guys presented to you.

11 But Andrew, on the other hand, would not have  
12 to present anything at all. All he would say, this is not  
13 to code. This is not to spec without any proof.

14 Q. But then someone would check that, correct?

15 A. That is correct.

16 Like I said, we would give the information to  
17 IPOS, David Smith or Merlin, and he would send it off to  
18 Holland.

19 Q. So at that point, you understood that IPOS wasn't  
20 just taking Mr. Canning's word for it, but was doing some  
21 further due diligence?

22 MS. ROHN: Objection to the form of the  
23 question. Calls for speculation.

24 Q. (Ms. Francis) Mr. Persuad, based upon your  
25 testimony, was it your understanding that Mr. Smith or

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1 Q. To the best of your recollection, what did you  
2 discuss or say to Mr. Figueira?

3 A. Prior, we had these three meetings with everybody  
4 from IPOS. David Smith and Merlin. Nothing came about it.  
5 I had enough of it, and approached Merlin directly, Hey,  
6 something had to give here, 'cause every time this guy say  
7 nothing is wrong with us, we're the greatest people around,  
8 and after the meeting, he tells a whole different side. And  
9 I got tired of it and said, Merlin, something has to be  
10 done. And he listened to me. I don't know if he did  
11 anything about it or not. I really can't say.

12 Q. And the comment that you were complaining about to  
13 Mr. Figueira was Mr. Canning saying that your folks were the  
14 greatest guys in the group meeting, but saying something  
15 else either before or after those meetings?

16 A. Well, all the meeting came about because Andrew  
17 Canning was, like I said, have this derogative stuff about  
18 Petro Industrial and their employees.

19 At the meeting, everything was great. After  
20 the meeting, two days later, he's back to his old ways.

21 Q. And what I'm trying to understand is what is it  
22 that you -- when you said something -- yeah, I'm just trying  
23 to understand. What is it that you said or recall saying to  
24 Mr. Figueira in a meeting that occurred after these three  
25 meetings that you described?

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1 Mr. Figueira were doing some due diligence to investigate or  
2 try to confirm the accuracy or inaccuracy of Mr. Canning's  
3 statements?

4 A. Yes.

5 Q. You testified at some point that you had some,  
6 what you called, off-the-record discussions with Mr.  
7 Figueira about Mr. Canning?

8 A. Yes, ma'am.

9 Q. And did you say that you had more than one such  
10 meeting?

11 A. One meeting, ma'am.

12 Q. Okay. I'm sorry. I had misunderstood you. Thank  
13 you.

14 And when was that?

15 A. I cannot recall.

16 Q. To the best of your knowledge and recollection, as  
17 you sit here today, what -- well, first of all, was that an  
18 in-person meeting, a phone meeting, or what was the format?

19 A. In-person meeting.

20 Q. St. Thomas or St. Croix?

21 A. St. Croix.

22 Q. Where, in St. Croix?

23 A. At IPOS.

24 Q. And was anyone else present?

25 A. No, ma'am.

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1 A. I said, Andrew Canning is picking on Petro and its  
2 employees. He's harassing us unnecessarily. And this  
3 cannot continue, because it's making the work environment  
4 very intolerable.

5 Q. Do you recall saying anything else?

6 A. No, ma'am.

7 Q. Did you refer to Mr. Canning in that discussion as  
8 racist?

9 A. Yes.

10 Q. And what specific -- what, specifically, did you  
11 say about Mr. Canning that characterized him as racist?

12 A. Pretty much, I said to him, was our work is to  
13 par. Our employees are to par, and he's never satisfied.  
14 He's always picking and calling names to our employees,  
15 which is making for a hostile environment in the workplace.

16 Q. Did you say anything else?

17 A. No, ma'am.

18 (Respite.)

19 Q. Did you, at any point, review any of the versa  
20 reports about the welding, such as the one that Attorney  
21 Beckstedt showed you earlier?

22 A. No, ma'am.

23 Q. And when is the first occasion that you had any  
24 interactions with Mr. Castro?

25 A. Ma'am, can't recollect a Mr. Castro.

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1 Q. So I believe you testified something to the effect  
2 of regarding Mr. Castro's reputation in the industry?  
3 A. Ma'am, is that Guillermo Castro?  
4 Q. Correct.  
5 A. I'm sorry. I don't know his last name. I know  
6 him as Guillermo. Sorry.  
7 Q. I believe his last name is Castro.  
8 A. I'm sorry. I don't know his last name. I know  
9 him as Guillermo.  
10 would you please repeat the question?  
11 Q. Sure.  
12 Do you recall making some statements during  
13 your deposition testimony earlier about Mr. Guillermo's  
14 reputation in the industry?  
15 A. Yes, ma'am.  
16 Q. Okay. And what is the basis for the statements  
17 that you made?  
18 A. Ma'am, he's -- like I said, being his reputation,  
19 he has pretty much invented the phase array/shear wave  
20 method.  
21 Q. He invented what?  
22 A. A form of inspection. And he's pretty much worked  
23 for every inspection company in North America, Europe, South  
24 America, and his word is pretty much trusted as an  
25 inspector.

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147

CHETRAM PERSUAD -- CROSS

1 Q. Do you know of any other company he's worked with?  
2 A. No.  
3 Q. Do you know how he was employed in 2021?  
4 A. No.  
5 Q. And as I understand it, you didn't have any direct  
6 communications with him concerning certification of any  
7 Petro welders, correct?  
8 A. That is correct.  
9 Q. And when's the most recent occasion you had any  
10 communications with him?  
11 A. I can't recollect, but the gentleman passed away  
12 now, John Carter, that was quite -- 10 years ago, maybe.  
13 Q. I'm sorry. Ten years ago is the last time you had  
14 a communication with Mr. Castro?  
15 A. Roughly. I think so.  
16 Q. Do you have any knowledge about his present  
17 whereabouts?  
18 A. No.  
19 (Respite.)  
20 Q. With respect to your testimony about the gate logs  
21 at the facility, did I understand you to say that in  
22 St. Thomas, the security guard would ask the individual  
23 entering whether that's a Petro employee or someone else,  
24 and signed the log, correct?  
25 A. Yes, ma'am.

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1 Q. And what form of inspection did Mr. Guillermo  
2 Castro invent?  
3 A. It's called a shear wave.  
4 MS. FRANCIS: Susan, did you get that?  
5 THE COURT REPORTER: Shear wave.  
6 Q. (Ms. Francis) And when did he invent that?  
7 A. Ma'am, I'm not sure. I don't know.  
8 Q. And how do you know he invented that?  
9 A. Acuren. He worked for one of the major companies  
10 in North America, Acuren. And when he invented it, it was  
11 published in the industry journals.  
12 Q. And did someone from Acuren give you that  
13 information, sir?  
14 A. No, ma'am. When he came to Limetree Bay, someone  
15 said he's the guy who invented it. And at the time, with  
16 HOVENSA, they usually have all these industrial journals  
17 that they share with their employees, and he was in one of  
18 these.  
19 Q. Other than Acuren, are you familiar with any other  
20 company that Mr. Guillermo Castro has worked with?  
21 A. Versa.  
22 Q. And when do you believe he worked for Versa?  
23 A. Pardon me?  
24 Q. When do you believe he worked for Versa?  
25 A. I don't know, ma'am.

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148

CHETRAM PERSUAD -- CROSS

1 Q. Okay. And then did you say the security would  
2 write in the time that that person entered and left, or does  
3 the actual visitor to the facility write that in?  
4 A. In St. Thomas, the individual would write that in.  
5 Q. Okay. They would write their name and their time  
6 they were entering or leaving?  
7 A. Yes, ma'am.  
8 Q. And in St. Croix, I believe you testified that the  
9 security guard would make all of those entries, name and  
10 time of entry or departure?  
11 A. Yes, ma'am. It's a smaller facility here in  
12 St. Croix, compared to St. Thomas.  
13 Q. Do you have any knowledge of Mr. Canning ever  
14 making any recommendations, or recommending Petro for any  
15 projects or jobs?  
16 A. Yes, ma'am.  
17 Q. And what's your knowledge in that regard?  
18 A. The Aggreko project on St. Croix.  
19 Q. When was that?  
20 A. Sorry, ma'am. Can't -- can't recollect the date.  
21 (Respite.)  
22 Q. With respect to the welders, was there -- that  
23 were used in 2021, was there a lead welder, or someone who  
24 is directing the other welders?  
25 A. Yes, ma'am. There was a supervisor on the job.

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- 1 Q. And who was that?
- 2 A. At first, it was Elias Rivera, and they were
- 3 removed from the site as a recommendation of Andrew Canning,
- 4 and Ricardo took his spot.
- 5 Q. And what's Ricardo's last name?
- 6 A. I can't -- at this time, I can't remember.
- 7 Q. So was Ricardo a welder?
- 8 A. No, ma'am. He was the lead person and a pipe
- 9 fitter.
- 10 Q. Oh. Was he a resident of Puerto Rico or a
- 11 resident of the Virgin Islands?
- 12 A. Puerto Rico.
- 13 Q. And was Mr. Rivera a resident of Puerto Rico or
- 14 the Virgin Islands?
- 15 A. Puerto Rico.
- 16 Q. Do you know if any of the welders were bilingual?
- 17 A. Yes, ma'am.
- 18 Q. And what is your knowledge in that regard?
- 19 A. Ma'am, I don't speak Spanish, and I communicate
- 20 clearly with everyone on site.
- 21 Q. You had no negotiations with any contracts between
- 22 IPOS and Petro, correct?
- 23 A. That's correct.
- 24 Q. And what was the purpose of your trip to Houston
- 25 that you testified about?

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151

CHETRAM PERSUAD -- CROSS

- 1 A. Not at the moment I can remember.
- 2 Q. And when did you start the Cruzan Rum work?
- 3 A. Right now, it's basically trying to put numbers
- 4 together, and it's been going for over a year right now
- 5 until Cruzan Rum make a decision when to pull the trigger
- 6 and do the job.
- 7 Q. Okay. So there's no actual work being done at
- 8 Cruzan?
- 9 A. Not at the moment.
- 10 Q. Has Petro performed work at Cruzan Rum in the
- 11 past?
- 12 A. Ma'am, we perform work at Cruzan Rum regular
- 13 throughout the year. And as they approve our budgets or
- 14 approve our jobs, we will continue.
- 15 Q. And there's work currently being performed at
- 16 Diageo?
- 17 A. Yes.
- 18 Q. Okay. And when did that begin?
- 19 A. It's been ongoing for probably four weeks.
- 20 Q. Prior to four weeks ago, had Petro done any work
- 21 at Diageo?
- 22 A. Yes, ma'am. Ongoing. They have a shutdown, and
- 23 they have their maintenance. We're presently on their
- 24 shutdown work right now. Throughout the year, we have a
- 25 presence at Diageo doing their maintenance.

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- 1 A. Ma'am, I went on a weekend getaway, and while we
- 2 were there, we had a call from Merlin. If you guys are in
- 3 town, stop by the head office and say hello to these people.
- 4 Q. So Mr. Figueira suggested that you meet with
- 5 Mr. Horwitz, and the other individual that you testified
- 6 about?
- 7 MS. ROHN: That's what he just said.
- 8 Q. (Ms. Francis) Is that correct?
- 9 A. That's correct.
- 10 Q. You testified that from time to time, you don't --
- 11 either don't receive a paycheck, or it's delayed, due to
- 12 Petro receivables.
- 13 As you sit here today, are you up to date on
- 14 all paychecks, or are any of them delayed?
- 15 A. Yes, ma'am. I'm up to date on everything.
- 16 Q. And are you currently managing or acting as a
- 17 Petro representative for any Petro projects?
- 18 A. Yes, ma'am.
- 19 Q. Okay. And what projects are those?
- 20 A. We're presently at Cruzan Rum -- Diageo with a
- 21 shutdown. Diageo, they have a few projects beside the
- 22 shutdown to improve their production.
- 23 We're presently involved at Cruzan Rum,
- 24 upgrading some of their systems.
- 25 Q. Any others?

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152

CHETRAM PERSUAD -- CROSS

- 1 Q. And when did Petro start doing maintenance work
- 2 for Diageo?
- 3 A. I would say about three years ago.
- 4 Q. Did you have any work in -- any involvement,
- 5 rather, in any work that Petro did directly for WAPA?
- 6 A. Yes, ma'am.
- 7 Q. Okay. Tell me what involvement you had, and
- 8 during what period.
- 9 A. The job was a diesel line in St. Thomas from the
- 10 port to storage. It had sprung several leaks. Went in and
- 11 did the repairs for them.
- 12 Q. When was that?
- 13 A. Not sure, ma'am.
- 14 Q. Okay. Was it within the past three years?
- 15 A. Yes.
- 16 Q. Are there any other projects or work sites that
- 17 you have worked on for Petro between the start of the
- 18 pandemic and the present?
- 19 A. Yes, ma'am. Waste Management on St. Croix. Waste
- 20 Management on St. Thomas. Worked on the gas turbine system
- 21 for Frenchman's Reef.
- 22 Q. When did the Frenchman's Reef occur?
- 23 A. Earlier on this year.
- 24 Q. It's concluded?
- 25 A. Pardon me?

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1 Q. Is it concluded?

2 A. Yes.

3 Q. And what -- do you know what entity Petro was

4 working for?

5 A. Polaris, at the time.

6 Q. Say that again?

7 A. Polaris.

8 Q. Any additional work scheduled for -- to be

9 performed with Polaris?

10 A. Yes, ma'am.

11 Q. What additional work do you expect to be involved

12 in?

13 A. Sugar Bay Resort. Frenchman Cove. The new hotel

14 they plan to build in Havensight.

15 Q. And does Petro actually have contracts for any of

16 that work?

17 A. Ma'am, it's all tentative. They have to go

18 through and get their budget, and then they'll let us know

19 when.

20 Q. When did Petro start performing work for waste

21 Management in St. Thomas?

22 MS. ROHN: Okay. This is not -- this client

23 is not testifying for Petro.

24 MS. FRANCIS: I understand.

25 MS. ROHN: So I don't know why you keep

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1 A. We concluded a few. We got a few proposal. And

2 like I said, everything is based upon budget.

3 Q. After you had a conversation with Merlin about

4 Mr. Canning that you testified about before, did you have

5 any further direct interactions with Mr. Canning after that

6 point?

7 A. Yes.

8 (Respite.)

9 Q. And what specific direct interactions did you

10 recall with Mr. Canning after the conversation with

11 Mr. Figueira that you testified about?

12 A. Ma'am, Mr. Canning represented Vitol on site, so

13 whatever work had to be done, it had to come from

14 Mr. Canning.

15 Q. And am I correct in understanding that the change

16 you testified about was that at some point, Mr. Canning

17 would just communicate with you, as opposed to communicating

18 directly with Petro employees; is that correct?

19 A. Yes.

20 MS. FRANCIS: I have no further questions. I

21 will yield to counsel for Mr. Canning.

22 MR. SIMPSON: Thank you. Do you guys want to

23 take a break before we continue?

24 MS. FRANCIS: Sure.

25 MS. ROHN: Yes, please.

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1 asking when did Petro do something.

2 MS. FRANCIS: Fair enough.

3 Q. (Ms. Francis) Mr. Melendez -- I mean, Mr. Persuad,

4 I am only asking you about your personal knowledge. I'm not

5 asking you about anything you don't have knowledge about.

6 To the best of your personal knowledge, when

7 were you first involved in work that was being performed by

8 Petro for waste Management in St. Thomas?

9 A. Earlier part of this year, we started putting a

10 proposal together.

11 Q. And what was the nature of the work?

12 A. Sandblasting. Painting. Repairing of motors.

13 Replacing of motors and fans. Mechanical work.

14 Q. And has there been actual work done for waste

15 Management that you are aware of, or just a proposal that

16 you are aware of?

17 A. The one in St. Thomas, proposal; the one in

18 St. Croix, we actually have been doing several jobs for

19 them.

20 Q. Okay. And to the best of your knowledge, when

21 did -- when were you first involved in Petro work for waste

22 Management in St. Croix?

23 A. Early part of this year again.

24 Q. Is that work for waste Management on St. Croix

25 continuing, or has it concluded?

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1 MR. SIMPSON: Okay. Five minutes?

2 MS. ROHN: Sounds good.

3 (Short recess taken.)

4 CROSS-EXAMINATION

5 BY MR. SIMPSON:

6 Q. Mr. Persuad, my name is Andy Simpson. I represent

7 Andrew Canning in this matter. I've got a few follow-up

8 questions. I will try not to repeat myself with questions

9 that have already been asked, but it's hard to hear you,

10 especially in the beginning, so there may be some

11 repetition. I apologize.

12 You told Attorney Beckstedt that Mr. Canning

13 referred to the Petro employees as islanders or locals; is

14 that correct?

15 A. Yes.

16 Q. And I think you also said that at one point, he

17 referred to someone as being Hispanic?

18 A. Yes.

19 Q. Are there any other racial or discriminatory

20 comments that you believe Mr. Canning made, other than those

21 three you told us about?

22 A. Not -- not to my knowledge.

23 Q. To your knowledge, did anyone, other than

24 yourself, ever hear Mr. Canning make such comments?

25 A. Yes.

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- 1 Q. who else heard him say that?
- 2 A. Calvin Schmidt.
- 3 Q. I'm sorry. who?
- 4 A. Calvin Schmidt.
- 5 Q. And were you present when he made the comment to
- 6 Mr. Schmidt?
- 7 A. Yes.
- 8 Q. And that first name was Alvin?
- 9 A. Calvin.
- 10 Q. Calvin. Sorry.
- 11 And what -- was Mr. Canning speaking to you
- 12 or Mr. Schmidt or both when he made the comment that you are
- 13 referring to now?
- 14 A. He made the comments to Mr. Schmidt.
- 15 Q. And what, specifically, did he say to Mr. Schmidt?
- 16 A. Mr. Schmidt relayed to me that Mr. Canning has
- 17 made derogatory remarks toward our employees. And these
- 18 Hispanics that we have working here, they're not qualified.
- 19 Q. Were you present when Mr. Canning made this
- 20 comment to Mr. Schmidt?
- 21 A. No.
- 22 Q. So this is, what you're telling me now, is based
- 23 upon a report Mr. Schmidt gave to you?
- 24 A. Verbally, yes.
- 25 Q. Okay. And did Mr. Schmidt ever put anything in

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159

CHETRAM PERSUAD -- CROSS

- 1 Q. Do you know of anyone who recorded anything that
- 2 Mr. Canning ever said?
- 3 A. No.
- 4 Q. And is it my under -- is my understanding correct,
- 5 that other than a complaint you made to Merlin, you never
- 6 complained to anybody about alleged racial or discriminatory
- 7 comments by Mr. Canning?
- 8 MS. ROHN: Objection. Does not conform with
- 9 his prior testimony.
- 10 Q. (Mr. Simpson) You may answer.
- 11 A. Repeat the question, please.
- 12 Q. Sure. Well, let me rephrase it.
- 13 I believe you told us earlier that you
- 14 complained following one of the three meetings to Mr. Merlin
- 15 Figueira about racial or discriminatory comments made by
- 16 Mr. Canning.
- 17 Did I understand that correctly?
- 18 A. Yes.
- 19 Q. Okay. Did you ever complain, other than that
- 20 particular instance, to anyone, about Mr. Canning making
- 21 racial or discriminatory comments?
- 22 A. No.
- 23 Q. And in that meeting with -- or conversation with
- 24 Mr. Figueira, what specifically did you say to him about
- 25 Mr. Canning saying something that was racial or

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(340) 773-8161

- 1 writing about that comment?
- 2 A. No.
- 3 Q. Did you ever put anything in writing about that
- 4 comment?
- 5 A. No.
- 6 Q. Other than the -- did Mr. Schmidt ever report to
- 7 you any other such comments coming from Mr. Canning?
- 8 A. Mr. Schmidt reported another time that our work
- 9 ethics, according to Andrew Canning, and our employees, it's
- 10 not to par. And complained about our boilermakers being
- 11 lazy islanders.
- 12 Q. And, again, this was a comment that was made to
- 13 you by Mr. Schmidt, but you were not there to hear
- 14 Mr. Canning say that to Mr. Schmidt, correct?
- 15 A. That's correct.
- 16 Q. Are you aware of anyone else who claims that
- 17 Mr. Canning made a racial or discriminatory remark to them
- 18 or about any Petro Industrial employees?
- 19 A. No.
- 20 Q. Did you ever record any of the comments you heard
- 21 Mr. Canning make?
- 22 A. No.
- 23 Q. Did you ever record anything that Mr. Canning
- 24 said?
- 25 A. No.

Susan C. Nissman, RPR-RMR  
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160

CHETRAM PERSUAD -- CROSS

- 1 discriminatory?
- 2 A. According to what I said to Mr. Merlin was, Andrew
- 3 Canning repeatedly discriminating against us as calling us
- 4 islanders, locals, and apart from that, our work ethics that
- 5 he complained about.
- 6 As far as Merlin see it, our work ethic was
- 7 fine. That's according to Merlin. But Andrew Canning had
- 8 issue with that, and had an issue with the employees at the
- 9 site.
- 10 Q. I'm sorry. I had trouble understanding all of
- 11 your answer.
- 12 Did you say that Merlin agreed that there was
- 13 a problem with Mr. Canning?
- 14 A. Yes.
- 15 Q. Did he specifically agree that there was a problem
- 16 related to race or discrimination?
- 17 A. Sir, I don't know what Merlin was relating to, but
- 18 he clearly stated Andrew Canning had a issue with Petro
- 19 Industrial and their employees.
- 20 Q. On those three meetings you told us about, how
- 21 would those meetings be scheduled?
- 22 A. I think by e-mail form from the IPOS -- IPOS
- 23 general manager at the time, whoever it may be.
- 24 Q. And what specifically was the topic or topics for
- 25 these meetings?

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1 A. The performance of Petro Industrial and their  
2 employees.

3 Q. But there would be something -- there would be  
4 something either on the subject line of the e-mail or the  
5 body of the e-mail that let you know that that was going to  
6 be discussed at the meeting?

7 MS. ROHN: Objection to form. Not a  
8 question.

9 Q. (Mr. Simpson) Is that correct?

10 A. Can you repeat the question, please?

11 Q. Sure.

12 So am I correct that either the subject of  
13 those e-mails or the body of the e-mails informed you that  
14 the meeting, one of those three meetings, were going to be  
15 about Petro Industrial's performance?

16 A. Yes. We would have asked the general manager for  
17 this meeting, 'cause Andrew Canning was just getting out of  
18 control on several occasion.

19 Q. So you said the e-mail scheduling the meeting came  
20 from IPOS, but it was someone from Petro that actually  
21 requested the meeting?

22 A. That's correct.

23 Q. And who, specifically, from Petro requested the  
24 meeting?

25 A. It would have been Adrian or myself, verbally.

Susan C. Nissman, RPR-RMR  
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1 on a plantation?

2 A. Yes, because if the guys leave to go get a garbage  
3 bag, for example, he wants to know, where did they go, how  
4 long did they take, and they are walking into the control  
5 room to their job site, which is no more than 4-5 minutes,  
6 and he's asking these questions. I haven't seen you for  
7 half a day. Where have you been? Is the work being  
8 completed? And he's on site. He's making his rounds,  
9 walking around, every two hours.

10 Q. Okay. And what's wrong with that?

11 A. There's nothing wrong with that, sir. It's just  
12 that the harassment of our employees, and asking them a  
13 simple task as cleaning a drain, do you know what you're  
14 doing? Are you qualified to clean a drain?

15 Q. What did you understand Mr. Canning's role was  
16 with respect to the propane projects out there?

17 A. As far as I could recollect, Andrew Canning said  
18 he's the representative for IPOS. For -- I'm sorry. Not  
19 for IPOS. For Vito1.

20 Q. So is this just a case of you not liking  
21 Mr. Canning's management style?

22 A. It's not about liking manage. I've worked with  
23 several different people, besides Andrew Canning. But  
24 Mr. Canning went above and beyond to make the work  
25 environment hostile.

Susan C. Nissman, RPR-RMR  
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1 Q. So none of these requests to IPOS would have been  
2 in an e-mail?

3 A. Not to my knowledge.

4 Q. Where did these meetings occur?

5 A. At IPOS site.

6 Q. St. Thomas or St. Croix?

7 A. St. Croix.

8 Q. So all three meetings were on St. Croix?

9 A. Yes.

10 Q. Did you ever complain to Mr. Canning that you  
11 thought he was acting in a racist or discriminatory manner?

12 A. I told Mr. Canning he run this place like a  
13 plantation, and we're no longer in the slavery days.

14 Q. When did you tell him that?

15 A. I told him that on two occasions. I'm terrible  
16 with dates. I cannot remember.

17 Q. So you said you told him two different times?

18 A. Yes.

19 Q. Do you remember for either time what kind of work  
20 Petro was doing at the time?

21 A. For maintenance, he would follow our employees  
22 around while they were working. Birddogging them. Standing  
23 over them directly on a mediocre task. Someone picking up  
24 trash. Someone cleaning out a gutter.

25 Q. And you told him that that was similar to working

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1 Q. Were you aware that Mr. Canning recommended Petro  
2 to IPOS?

3 MS. ROHN: Objection to the form. Assumes  
4 facts not in evidence. You can answer.

5 A. Can you repeat that, please?

6 Q. (Mr. Simpson) Sure.

7 Were you aware that Mr. Canning recommended  
8 to IPOS that it replace Vivot with Petro?

9 A. Not to my knowledge.

10 Q. Is the term "islander" or "local" or "Hispanic"  
11 the worst thing you ever heard Mr. Canning say, from a  
12 racial or discriminatory perspective?

13 A. That sums it up.

14 Q. So your answer is yes?

15 A. Yes.

16 Q. Have you spoken with Mr. Canning at any time since  
17 the termination of the Petro Industrial contract with IPOS?

18 A. Yes. I bought him two beers: One for myself, and  
19 one for Adrian.

20 Q. One from you and one from Adrian?

21 A. I said, one from me, and I told him this other one  
22 is from Adrian.

23 Q. Okay. When did you do that?

24 A. I was at the Palms about, I don't know, six  
25 months. Six to eight months. Can't really recollect. Was

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1 the last time I saw him.

2 Q. Did you have any other discussion with him, other  
3 than that?

4 A. No. He was with someone there, and, you know,  
5 just being the person that I am.

6 Q. So because he was with someone else, you did not  
7 have further conversation?

8 A. No. He either had a meeting or he had a  
9 discussion going on, so I did not want to interrupt him.

10 Q. Okay. You mentioned that Mr. Canning recommended  
11 that Mr. Rivera be removed from the site.

12 Do you know why that recommendation was made?

13 A. Pardon me? I did not hear that. Please repeat  
14 that.

15 Q. Sure.

16 You told us that Mr. Canning recommended that  
17 Mr. Rivera be removed from the site?

18 A. Yes.

19 Q. Okay. Do you know why he recommended -- he made  
20 that recommendation?

21 A. Yes.

22 Q. Why did he make that recommendation?

23 A. To the best of my knowledge, Mr. Rivera correct  
24 Andrew Canning on several occasion. And every time he  
25 corrected him, he will have gotten upset with Mr. Rivera.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

1 we brung Mr. Canning out, and David Nagle.  
2 Took a flashlight. Showed it to him what was the problem,  
3 and he continue saying, These guys are lazy. worthless.

4 Q. What happened to the completion of that job?

5 A. The guys did not listen to Mr. Canning and  
6 performed the task according to how they know, and they got  
7 through with it.

8 Q. The same people finished this task?

9 A. The same people finished the task. Like I said,  
10 this is more than one occasion Andrew Canning had it out for  
11 Mr. Rivera.

12 Q. Have you ever heard the expression, If it's not  
13 written, it didn't happen?

14 A. No.

15 Q. You indicated that Mr. Canning said that you and  
16 Mr. Melendez were worthless for running a company.

17 Do you recall that testimony?

18 A. Yes.

19 Q. Did you actually hear him say that?

20 A. To our faces.

21 Q. Who else was present?

22 A. It was in the evening on the Aggreko job, and  
23 that's what he said to us. At the same time, he said we  
24 were robbing the company, and he will report us to the  
25 highest authority.

Susan C. Nissman, RPR-RMR  
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1 And all you had to do, do what I ask. It's not the correct  
2 thing to do, and he would not have done it.

3 Q. What did Mr. Rivera correct Mr. Canning about?

4 A. Mr. Canning recommend to Mr. Rivera, for example,  
5 if a pipe was bent. Turn the pipe around and bolt it up.  
6 It will straighten it up. It's a 6-inch pipe. No bolt can  
7 straighten up no 6-inch pipe. So Mr. Rivera would say, You  
8 know, that's impossible. I am not doing that task.

9 Mr. Rivera, again, on several occasion, when  
10 it comes to -- on the welding side of things, Andrew Canning  
11 wanted him to do certain things, which did not make any  
12 sense, according to Mr. Rivera. And said, you know, hey, we  
13 have a plan. We're proceeding with our plan. Please don't  
14 stop us. Mr. Canning would reinforce, I am the VitoI  
15 representative. And if you can't do what I want, I'll  
16 escort you off site.

17 Q. What, specifically, was Mr. Canning recommending  
18 be done with regard to welding?

19 A. Again, with these RIO panels. We're supposed to  
20 drill into the side of this huge mound, hitting some heavy  
21 material that we use diamond tips to cut into them, and we  
22 was still having a problem. Immediately we went to  
23 Mr. Canning and report this. Mr. Canning said, That is not  
24 true. There's nothing there. You guys are being lazy. You  
25 guys should be replaced immediately.

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1 Q. So that was not in a face-to-face meeting, that  
2 was in an e-mail?

3 A. No, it was face to face. He told us to our face.

4 Q. Okay. I'm sorry. I thought you said it was in an  
5 e-mail. That's why I was confused.

6 A. No, I did not.

7 Q. When -- when did that occur?

8 A. I cannot give you a date, but it was during the  
9 Aggreko project, and it was about 8 o'clock, 9 o'clock in  
10 the evening.

11 Q. And other than you and Mr. Melendez, was anyone  
12 else present?

13 A. No.

14 MR. SIMPSON: I have no further questions.  
15 Thank you very much.

16 MS. ROHN: Can we have a short break, and I  
17 can talk to my client?

18 (Short recess taken.)

19 CROSS-EXAMINATION

20 BY MS. ROHN:

21 Q. Thank you.

22 Mr. Persuad? Persuad is the correct way to  
23 pronounce it?

24 A. That's correct.

25 Q. Persuad.

Susan C. Nissman, RPR-RMR  
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1 Mr. Persuad, did you ever hear Mr. Canning  
2 advocating that IPOS or Vito1 should be hiring stateside  
3 companies instead of these local companies?

4 A. Yes.

5 Q. And how often would he do that?

6 A. As far as every job that we did perfectly correct  
7 and came in on budget. As much time as we did, 5-6 times.

8 Q. Okay. So frequently?

9 A. Frequently.

10 Q. And who would he say these things to?

11 A. He would say directly to us. He would recommend  
12 it to -- on several occasion to David Smith, Merlin. The  
13 higher-ups at Vito1.

14 Q. And did you ever hear him say why he thought they  
15 should be hiring stateside companies instead of your local  
16 Virgin Islands company?

17 MR. SIMPSON: Objection.

18 Q. (Ms. Rohn) You can answer.

19 A. 'Cause he said we do not -- Petro do not know what  
20 they're doing. They don't have qualified people.

21 Q. Now, there came a time, am I correct, that Traeger  
22 Brothers met directly with you guys and IPOS?

23 A. Yes.

24 Q. Were you at that meeting?

25 A. Yes.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

1 A. Merlin.

2 Q. No. Who told Merlin that?

3 A. Oh, the representative. Traeger Brother.

4 Q. And who was the person from Traeger Brothers?

5 A. Dave Tillman.

6 Q. Dave Tillman. Okay.

7 And did Mr. Tillman, at that time, say he was  
8 doing to have that conversation with Mr. Canning about that?

9 A. Yes.

10 Q. What did he say about going to tell Mr. Canning  
11 about what his position was?

12 A. The valves were readily available. All he had to  
13 do is make a decision, and the valves would be here.

14 Q. Okay. And after that meeting where you guys met  
15 with Traeger Brothers without Mr. Canning, what was -- what  
16 was the reaction that Mr. Canning had towards your company?

17 A. I would say --

18 MR. SIMPSON: Objection.

19 A. -- the straw that broke the camel's back. He was  
20 very malicious and spiteful then.

21 Q. (Ms. Rohn) And what kinds of things did he do to  
22 be malicious and spiteful?

23 A. He started like going out more in the jobs.  
24 Finding nitpicking on little small details on our work  
25 ethics. Our proposals. As far as the timing, you know,

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1 Q. Okay. And did they make any statements about  
2 Mr. Canning and his inability to properly control the jobs?

3 A. Yes.

4 Q. And what --

5 MR. SIMPSON: Objection.

6 Q. (Ms. Rohn) And what did they say in that regard?

7 A. Mr. Canning is stalling every job that he has. He  
8 does not want to move forward. And in turn, we were  
9 supposed to be helping. And sometimes the blame he was  
10 trying to put on us for not proceeding.

11 Q. Okay. And did Mr. -- did the Traeger Brothers at  
12 that meeting -- who was the person at that meeting? Do you  
13 recall the name?

14 A. Dave Tillman. The guy from KITZ valve. I can't  
15 remember his name. The company name. The guy name. But  
16 he's directly from the company that was trying to source  
17 these valve for three years. Etienne, was another  
18 representative. Etienne for Traeger Brothers. Merlin,  
19 Coury Hodge, Rawle Granger, and myself.

20 Q. And the person who was saying this, what was the  
21 name of the person who was saying this?

22 A. That the valves were available?

23 Q. No. That Canning was stalling the jobs?

24 A. It was presented to Merlin.

25 Q. But who said that?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

1 everything was just back and forth with him.

2 Q. And was it after this meeting with the Traeger  
3 Brothers that all of a sudden you were asked for  
4 qualifications of your welders?

5 A. That is correct.

6 Q. And do you know where that request for  
7 qualifications from your welders actually came from?

8 A. No.

9 Q. And as to Mr. Canning's negative context --  
10 comments about you and your crew and the company, did that  
11 increase or decrease after the Traeger Brother meeting?

12 A. It increased.

13 MR. SIMPSON: Objection.

14 Q. (Ms. Rohn) And how would you describe the  
15 increase?

16 A. He was frequently more on the job. Frequently  
17 nitpicking, like I said. And pretty much he went after our  
18 welders and Elias, as far as on this one job, remove him  
19 from site.

20 MS. ROHN: I have no further questions.

21 MR. BECKSTEDT: I've got follow-up to that  
22 questioning.

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## REDIRECT EXAMINATION

BY MR. BECKSTEDT:

Q. You said that you -- did you personally hear, with your own ears, Andrew Canning advocating to hire stateside people?

A. To our faces, yes.

Q. Okay. And you said that occurred five or six times, right?

A. That is correct.

Q. And then you said that Andrew Canning recommended it to the higher-ups, to Vitol, right?

A. Yes.

Q. And by "it," you mean --

A. David Smith.

Q. Well, wait a second. Okay. Well --

MS. ROHN: Let him ask the question.

A. Gotcha.

MS. ROHN: I haven't kicked you once today.

Q. (Mr. Beckstedt) You said that Andrew Canning recommended it to higher-ups. To Vitol.

When you say, "recommended it to higher-ups," are you talking about hiring stateside companies?

A. Recommending hiring stateside companies, yes.

Q. All right. And you said to the higher-ups to Vitol.

Susan C. Nissman, RPR-RMR  
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A. David Smith.

Q. David Smith.

All right. And that's the only higher-up to Vitol that -- that you're -- that he recommended it to?

A. To my knowledge.

Q. All right. And what informs your knowledge that Andrew Canning made that recommendation or statement to David Smith?

A. He prove it to us. We're supposed to do a job, small job, take three weeks. Took the job away from us, and it took a year before the piping came back.

Q. Okay. First of all, I want to understand that. I'm going to break it down.

Did you actually hear or observe David Canning make the recommendation to David Smith?

A. Yes.

Q. So he did it in your presence?

A. Yes.

Q. Okay. Explain that.

A. We were in one of these meetings with IP0S, a weekly meeting about jobs moving forward. We gave our proposal, and he recommended he wants to give it to somebody in the States, do the job, versus us being here.

Q. Okay. And what was the job that was at issue at that time?

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## CHETRAM PERSUAD -- REDIRECT

A. What?

Q. What is the job he was recommending that they hire a stateside company?

A. Replacing some 1-inch piping.

Q. Okay. Is that the only time you heard Andrew Canning recommend to David Smith that they hire a stateside firm?

A. No. He made it, that statement, several times. And I think after this first time that he tried it, and it took a year instead of weeks. In my opinion, it fell on deaf ears.

Q. What fell on deaf ear?

A. The recommendation to get another company from the stateside.

Q. So then they ultimately did use Petro?

A. Yes.

Q. Okay. All right. And so Andrew Canning told -- said in meetings that you were present at that he was advocating to hire stateside companies. And you heard him say that, right?

A. Yes.

Q. And you also heard him say that directly to David Smith, right?

A. Yes.

Q. Okay. But you never were present or know of any

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## CHETRAM PERSUAD -- REDIRECT

time that Andrew Canning advanced that recommendation up to any actual Vitol employees?

A. Not to my knowledge.

Q. Okay. All right. And with the exception of, I guess, the one job for replacing 1-inch piping, those recommendations by Andrew Canning fell on deaf ears?

A. Yes.

Q. Okay. But am I correct in understanding that there was one job for replacing 1-inch piping, where they did actually use a stateside company?

A. Yeah.

Q. And it just took a long time?

A. Took over a year.

Q. Got it. Okay.

Do you know the name of that company?

A. No.

Q. Okay. And do you know about the time frame of when that occurred?

A. I know it was in the pump. I know the job. I can't tell you. I'm sorry.

Q. And what about the job can you tell me that would help me to find out which job it was?

A. Replacing the 1-inch piping in the pump alley.

Q. In the pump alley.

Is there more than one pump alley?

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1 A. There's one in St. Thomas; one is here, St. Croix.  
 2 Q. It was the St. Croix pump alley?  
 3 A. Yes.  
 4 MR. BECKSTEDT: Okay. All right. I don't  
 5 have any further questions on that.  
 6 Simone or Andy, do you have any questions  
 7 further?  
 8 MR. SIMPSON: I think I have a follow-up.  
 9 I'll let Simone, if that's the order, if she has something.  
 10 MR. BECKSTEDT: Simone, you're on mute.  
 11 MS. FRANCIS: Yeah, I'll let you go. I may  
 12 have. I'm not quite ready, so why don't you go?  
 13 MR. SIMPSON: Sure.  
 14 RECROSS-EXAMINATION  
 15 BY MR. SIMPSON:  
 16 Q. With respect to the statement that you heard  
 17 Canning say that IPOS should not -- should -- I'm sorry,  
 18 should hire off-island companies, did he specifically use  
 19 the term "off-island companies," or did he simply recommend  
 20 a particular company or companies?  
 21 A. It was a broad statement that he made that the  
 22 local company, which is Petro Industrial, stateside  
 23 companies can do a whole lot better job than Petro  
 24 Industrial can do.  
 25 Q. Did he specifically use the term "stateside

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179

CHETRAM PERSUAD -- RECROSS

1 bought him two beers?  
 2 A. Six, eight months. I can't remember exactly the  
 3 date, but the last time I spoke to him, I was at The Palms,  
 4 and I bought him two beers.  
 5 Q. And this is the same individual that you contend  
 6 is racist and discriminated against local companies?  
 7 A. That's Andrew Canning perspective. That's not my  
 8 perspective. I'm good with everybody.  
 9 Q. So your testimony is that you're good with  
 10 Mr. Canning?  
 11 A. Not the way he treated us; but as an individual,  
 12 as a human being, yes.  
 13 MS. FRANCIS: I have no further questions.  
 14 MS. ROHN: I think that's a wrap.  
 15 MR. BECKSTEDT: Thank you, sir.

(whereupon the deposition concluded  
 at 3:37 p.m.)

Susan C. Nissman, RPR-RMR  
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1 company" in that conversation?  
 2 A. Yes.  
 3 Q. And did he specifically refer to Petro as a "local  
 4 company" in that conversation?  
 5 A. Yes.  
 6 Q. And have you seen any part of that conversation  
 7 documented in any e-mail report?  
 8 A. No.  
 9 Q. And you didn't complain about that statement  
 10 either at the time?  
 11 A. It was said in a broad spectrum with David Smith,  
 12 the general manager, the employees of IPOS, and myself, and  
 13 Adrian Melendez.  
 14 Q. Okay. I don't think you answered the question I  
 15 asked.  
 16 was that conversation documented in any  
 17 fashion?  
 18 A. Not to my knowledge.  
 19 MR. SIMPSON: I have no further questions.  
 20 RECROSS-EXAMINATION  
 21 BY MS. FRANCIS:  
 22 Q. Mr. Persuad, I just have one point of  
 23 qualification or clarification.  
 24 Did you say that you recently, within the  
 25 past six months, ran into Andrew Canning on island and

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180

## C-E-R-T-I-F-I-C-A-T-E

I, SUSAN C. NISSMAN, a Registered Merit Reporter  
 and Notary Public for the U.S. Virgin Islands,  
 Christiansted, St. Croix, do hereby certify that the above  
 named witness, CHETRAM PERSUAD, was first duly sworn to  
 testify the truth; that said witness did thereupon testify  
 as is set forth; that the answers of said witness to the  
 oral interrogatories propounded by counsel were taken by me  
 in stenotype and thereafter reduced to typewriting under my  
 personal direction and supervision.

I further certify that the facts stated in the caption  
 hereto are true; and that all of the proceedings in the  
 course of the hearing of said deposition are correctly and  
 accurately set forth herein.

I further certify that I am not counsel, attorney or  
 relative of either party, nor financially or otherwise  
 interested in the event of this suit.

IN WITNESS WHEREOF, I have hereunto set my hand as such  
 Registered Merit Reporter on this the 8th day of June, 2023,  
 at Christiansted, St. Croix, United States Virgin Islands.

/s/ Susan C. Nissman

My Commission Expires: Susan C. Nissman, RPR-RMR  
 June 28, 2023 NP 234-19